



Criminal Law Act 1977

1977 CHAPTER 45

PART III

CRIMINAL PROCEDURE, PENALTIES, ETC.

Penalties

27 General limit on power of magistrates' court to impose imprisonment,

- (1) Without prejudice to section 108 of the Magistrates' Courts Act 1952 (consecutive terms of imprisonment), a magistrates' court shall not have power to impose imprisonment for more than six months in respect of any one offence.
- (2) Unless expressly excluded, subsection (1) above shall apply even if the offence in question is one for which a person would otherwise be liable on summary conviction to imprisonment for more than six months.
- (3) Any power of a magistrates' court to impose a term of imprisonment for non-payment of a fine, or for want of sufficient distress to satisfy a fine, shall not be limited by virtue of subsection (1) above.

28 Penalties on summary conviction for offences triable either way

- (1) On summary conviction of any of the offences triable either way listed in Schedule 3 to this Act a person shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum or both:

Provided that—

- (a) a magistrates' court shall not have power to impose imprisonment for an offence so listed if the Crown Court would not have that power in the case of an adult convicted of it on indictment;
- (b) on summary conviction of an offence consisting in the incitement to commit an offence triable either way a person shall not be liable to any greater penalty

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- than he would be liable to on summary conviction of the last-mentioned offence; and
- (c) on summary conviction of attempting to commit an offence triable either way a person shall not be liable to any greater penalty than he would be liable to on summary conviction of the completed offence.
- (2) For any offence triable either way which is not listed in Schedule 3 to this Act, being an offence under a relevant enactment, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the prescribed sum unless the offence is one for which by virtue of an enactment other than this subsection a larger fine may be imposed on summary conviction.
- (3) Where, by virtue of any relevant enactment, a person summarily convicted of an offence triable either way would, apart from this section, be liable to a maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (2) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (4) Subsection (2) above shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each day on which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (5) Where, as regards any offence triable either way, there is under any enactment (however framed or worded) a power by subordinate instrument to restrict the amount of the fine which on summary conviction can be imposed in respect of that offence—
- (a) subsection (2) above shall not affect that power or override any restriction imposed in exercise of that power ; and
- (b) the amount to which that fine may be restricted in exercise of that power shall be any amount less than the maximum fine which could be imposed on summary conviction in respect of the offence apart from any restriction so imposed.
- (6) Where there is under any relevant enactment (however framed or worded) a power by subordinate instrument to impose penal provisions, being a power which allows the creation of offences triable either way—
- (a) the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of an offence triable either way shall by virtue of this subsection be the prescribed sum unless some larger maximum fine can be authorised on summary conviction in respect of such an offence by virtue of an enactment other than this subsection ; and
- (b) subsection (2) above shall not override any restriction imposed in the exercise of that power on the amount of the fine which on summary conviction can be imposed in respect of an offence triable either way created in the exercise of the power.
- (7) In this section—
- " the prescribed sum " means £1,000 or such sum as is for the time being substituted in this definition by an order in force under section 61(1) below ;
- " relevant enactment " means an enactment contained in this Act or in any Act passed before, or in the same Session as, this Act.
- (8) Schedule 5 to this Act shall have effect for the purpose of altering the penalties available on summary conviction of certain offences triable either way not listed

in Schedule 3 to this Act; and subsection (2) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 5.

29 Maximum penalties on summary conviction in pursuance of section 23

Where in pursuance of subsection (2) of section 23 above a magistrates' court proceeds to the summary trial of an information, then, if the accused is summarily convicted of the offence—

- (a) the court shall not have power to impose on him in respect of that offence imprisonment for more than three months or a fine greater than £500; and
- (b) section 29 of the Magistrates' Courts Act 1952 (power of court to commit offender to Crown Court for sentence if of opinion that his character and antecedents are such that greater punishment should be inflicted than the convicting court has power to inflict) shall not apply as regards that offence.

30 Penalties (and mode of trial) for offences made triable only summarily

- (1) The enactments specified in column 2 of Schedule 1 to this Act, which relate to the mode of trial of, and the maximum penalties for, the offences mentioned (and broadly described) in column 1 of that Schedule (being the offences which are by section 15(1) (a) above made triable only summarily instead of either way) shall have effect subject to the amendments specified in column 3 of that Schedule.
- (2) The said amendments have the effect of altering the maximum penalties available on summary conviction of the offences so mentioned as well as making alterations consequential on their becoming triable only summarily; and in that Schedule column 4 shows the present maximum penalties by way of fine or imprisonment on summary conviction and on conviction on indictment, and column 5 shows the new maximum penalties resulting from the amendments.
- (3) A person who (by virtue of section 15 above) is summarily convicted of an offence under section 2 (assaults by persons committing offences under the Act) or section 9 (entering land, with others, armed and for the purpose of taking or destroying game or rabbits) of the Night Poaching Act 1828 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding £500, or to both (instead of to a maximum penalty on conviction on indictment of seven years imprisonment or a fine or both for an offence under the said section 2, or of fourteen years imprisonment or a fine or both for an offence under the said section 9).
- (4) On conviction of an offence consisting in the incitement to commit a summary offence a person shall be liable to the same penalties as he would be liable to on conviction of the last-mentioned offence.

31 Increase of fines for certain summary offences

- (1) The enactments specified in column 2 of Schedule 6 to this Act, which relate to the maximum fines for the offence's mentioned (and broadly described) in column 1 of that Schedule, shall have effect as if the maximum fine that may be imposed on summary conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Schedule instead of a fine not exceeding the amount specified in column 3 of that Schedule, so however that the preceding provision shall not alter the maximum daily fine, if any, provided for by any of those enactments.

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- (2) This subsection applies to the following enactments (by virtue of which certain byelaws may make persons contravening the byelaws liable on summary conviction to a fine not exceeding £20), namely—
- (a) section 183 of the Public Health Act 1875 and section 237 of the Local Government Act 1972 (local authorities' byelaws) in their application to byelaws under any public general Act; and
 - (b) paragraph 5 of Schedule 6 to the Weights and Measures Act 1963 (byelaws about solid fuel), including that paragraph as extended to wood fuel by paragraph 4 of Part IV of Schedule 7 to that Act.

- (3) In the enactments to which subsection (2) above applies for any reference to £20 there shall be substituted a reference to £50; and any provision in force at the coming into force of this subsection which—

- (a) is contained in any byelaw made under a public general Act by virtue of—
 - (i) any enactment to which subsection (2) above applies; or
 - (ii) section 251 of the Local Government Act 1933; and
- (b) specifies £20 as the maximum fine which may be imposed on summary conviction in respect of a contravention of, or offence under, any byelaw mentioned in that provision,

shall have effect as if it specified £50 instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).

The preceding provisions of this subsection are without prejudice to subsection (4) below.

- (4) The following byelaws, namely—

- (a) byelaws under section 75 of the Public Health Act 1961 (byelaws as to pleasure fairs and roller skating rinks);
- (b) byelaws under section 76 of that Act (byelaws as to seaside pleasure boats); and
- (c) any byelaws relating to the burning of straw or stubble made by a local authority under section 235 of the Local Government Act 1972 (byelaws for good rule and government and suppression of nuisances),

may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding £200 and, in the case of a continuing offence, a further fine not exceeding £5 for each day during which the offence continues after the conviction thereof; and any such byelaw in force at the coming into force of this subsection which specifies £20 or any smaller sum as the maximum fine which may be imposed on summary conviction of an offence under any such byelaw shall have effect as if it specified £200 instead (but with no change by virtue of this subsection in the maximum daily fine, if any, for which it provides).

- (5) This subsection applies to any pre-1949 enactment (however framed or worded) which—

- (a) as regards any summary offence makes a person liable on conviction thereof to a fine of, or not exceeding, a specified amount less than £50 which has not been altered since the end of 1948 (and is not altered by this Act); or
- (b) confers power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the instrument), liable on conviction thereof to a fine of, or not exceeding, a specified amount less than

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£50 which has not been altered since the end of 1948 (and is not altered by this Act).

- (6) Every enactment to which subsection (5) above applies shall have effect as if for the specified amount less than £50 there mentioned there were substituted—
 - (a) £25 if the specified amount is less than £20 ; or
 - (b) £50 if the specified amount is not less than £20.
- (7) Where, by virtue of any enactment to which subsection (5) above applies by virtue of paragraph (a) of that subsection, a person convicted of a summary offence would, apart from this section, be liable to a fine, or maximum fine, of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction, subsection (6) above shall apply separately in relation to each specified amount less than £50, even if this produces the same instead of different amounts for different convictions.
- (8) Subsection (6) above shall not affect so much of any enactment as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each day on which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (9) In subsection (5) above " pre-1949 enactment" means an enactment passed before 1st January 1949 or an enactment passed on or after that date which (whether directly or, through successive re-enactments, indirectly) re-enacts with or without modification an enactment passed before that date.
- (10) In section 67(6) of the Medicines Act 1968, for " £400 " (which gives the maximum fine on summary conviction which can be imposed by regulations under section 66 for contravention of the regulations) there shall be substituted " £1,000 ".
- (11) In this section "enactment" does not include an enactment contained in an order, regulation or other instrument made under an Act.

32 Other provisions as to maximum fines

- (1) Where a person convicted on indictment of any offence (whether triable only on indictment or either way) would, apart from this subsection, be liable to a fine not exceeding a specified amount, he shall by virtue of this subsection be liable to a fine of any amount.
- (2) In section 27(3) of the Magistrates' Courts Act 1952 (power of a magistrates' court to fine an offender up to £100 where it would otherwise only have power to sentence him to imprisonment or other detention), for the words from " impose a fine " onwards there shall be substituted the words " impose a fine which—
 - (a) for an offence triable either way, shall not exceed the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 ; and
 - (b) for a summary offence, shall—
 - (i) not exceed £200 ; and
 - (ii) not be of such an amount as would subject the offender, in default of payment of the fine, to a longer term of imprisonment or detention than the term to which he is liable on conviction of the offence."
- (3) In paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972, for the words " £5 a day " (which give the maximum daily fine with which an offence created

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under the powers conferred by section 2(2) of that Act can under those powers be made punishable on summary conviction) there shall be substituted the words " £100 a day ".

33 Penalty for offences under section 3 of Explosive Substances Act 1883

For an offence under section 3 of the Explosive Substances Act 1883 (attempt to cause explosion, or making or keeping explosive, with intent to endanger life or property in the United Kingdom or the Republic of Ireland) the maximum term of imprisonment which may be imposed by a court in Great Britain shall be increased from twenty years to life.