



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

##### *Mode of trial*

#### **292 Mode of trial of certain offences**

- (1) Subject to subsection (6) below, the offences mentioned (and broadly described) in Schedule 10 to this Act shall be triable only summarily.
- (2) An offence created by statute shall be triable only summarily if—
  - (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
  - (b) subject to subsections (4) and (5)(a) below, the offence was created by an Act passed on or before 29 July 1977 (the date of passing of the Criminal Law Act 1977) and the penalty or maximum penalty in force immediately before that date, on any conviction of that offence, did not include any of the following—
    - (i) a fine exceeding £400;
    - (ii) subject to subsection (3) below, imprisonment for a period exceeding 3 months;
    - (iii) a fine exceeding £50 in respect of a specified quantity or number of things, or in respect of a specified period during which a continuing offence is committed.
- (3) In the application of paragraph (b)(ii) of subsection (2) above, no regard shall be paid to the fact that section 5(3) of this Act permits the imposition of imprisonment for a period exceeding 3 months in certain circumstances.
- (4) An offence created by statute which is triable only on indictment shall continue only to be so triable.
- (5) An offence created by statute shall be triable either on indictment or summarily if—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
  - (b) it is an offence to which neither subsection (2) nor subsection (4) above applies.
- (6) An offence which may under any enactment (including an enactment in this Act or passed after this Act) be tried only summarily, being an offence which, if it had been triable on indictment, could competently have been libelled as an additional or alternative charge in the indictment, may (the provisions of this or any other enactment notwithstanding) be so libelled, and tried accordingly.
- (7) Where an offence is libelled and tried on indictment by virtue of subsection (6) above, the penalty which may be imposed for that offence in that case shall not exceed that which is competent on summary conviction.