

*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### <sup>X1</sup>SCHEDULE 11

#### AMENDMENTS OF CRIMINAL PROCEDURE (SCOTLAND ACT) 1975

##### Editorial Information

- X1** The text of ss. 15(3), 37, 44, 53, 58, Schs. 1, 5, 6, 7, 9, 11, 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

<sup>F1</sup>1 There shall be inserted after section 193 a new section as follows—

**“193A Fines on conviction on indictment to be without limit.**

Where a person convicted on indictment of any offence (whether triable only on indictment or triable either on indictment or summarily) would, apart from this section, be liable to a fine not exceeding a specified amount, he shall by virtue of this section be liable to a fine of any amount]”.

##### Textual Amendments

- F1** Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5**.

<sup>F2</sup>2 There shall be inserted after section 283 a new section as follows—

**“283A Offences which are to become triable only summarily.**

- (1) The provision of this or any other enactment notwithstanding, the offences mentioned (and broadly described) in column 1 of Schedule 7A to this Act shall be triable only summarily.
- (2) Subsection (1) above is without prejudice to any other provision by virtue of which any offence is triable only summarily.]”.

##### Textual Amendments

- F2** Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5**.

3 ..... <sup>F3</sup>

##### Textual Amendments

- F3** Sch. 11 paras. 3, 6 repealed **Criminal Justice Act 1982 (c. 48, SIF 39:1)**, **Sch. 16**.

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- <sup>F4</sup> (1) In section 289(a), for “£150” there shall be substituted “the prescribed sum (within the meaning of section 289B below)”.
- (2) In section 289(b) for “£150” there shall be substituted “the prescribed sum (within the meaning of section 289B below)”.

#### Textual Amendments

**F4** Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5**.

<sup>F5</sup> There shall be inserted after section 289 new sections as follows—

**“289A Amendments relating to penalties (and mode of trial) for offences made triable only summarily.**

- (1) The enactments specified in column 2 of Schedule 7A to this Act (which relate to the modes of, and the maximum penalties for, the offences which are by section 283A of this Act made triable only summarily) shall so far as they relate to Scotland 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 those offences 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.

**289B Penalties on summary conviction for offences triable either summarily or on indictment.**

- (1) Where any offence created by a relevant enactment may by virtue of that enactment be tried either on indictment or summarily, the maximum fine if it is tried summarily shall be the prescribed sum (unless the offence is one for which by virtue of some other enactment a larger fine may be imposed on summary conviction).
- (2) Where, by virtue of a relevant enactment, a person summarily convicted of any offence to which subsection (1) above relates 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 (1) above shall apply irrespective of whether the conviction is a first, second or subsequent one.
- (3) Subsection (1) 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.
- (4) Where, as regards any offence to which subsection (1) above relates, there is under any enactment (in whatever words) a power by subordinate instrument to restrict the amount of the fine which on summary conviction can be imposed in respect of that offence—

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- (a) subsection (1) 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.
- (5) Where there is under a relevant enactment (in whatever words) a power by subordinate instrument to create a criminal offence—
- (a) the maximum fine which may in the exercise of that power be authorised on summary conviction in respect of such an offence, when that offence may be tried either on indictment or summarily, 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 (1) 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 created in the exercise of the power.
- (6) 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 289D(1) below;
- “relevant enactment” means an enactment contained in the Criminal Law Act 1977 or in any Act (including this Act) passed before, or in the same Session as, that Act.
- (7) Schedule 7B to this Act shall have effect for the purpose of altering the penalties available on summary conviction of the offences therein mentioned; and subsection (1) above shall not apply on summary conviction of any of the offences mentioned in paragraph 1(2) of the said Schedule 7B.

### **298C Increase of fines for certain summary convictions.**

- (1) The enactments specified in column 2 of Schedule 7C to this Act, which relate to the maximum fines for the offences 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.
- (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 203 of the Local Government (Scotland) Act 1973 (offences against byelaws) but (the provisions of section 462(11) of this Act notwithstanding) not that section as applied to byelaws made under any provision contained in a local or private Act other than by a local authority; and

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- (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 by virtue of any enactment to which subsection (2) above applies; 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).
- (4) 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 £50 which has not been altered since the end of 1948 (and is not altered by this Act).
- (5) Every enactment to which subsection (4) 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.
- (6) Where, by virtue of any enactment to which subsection (4) 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 (5) 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.
- (7) Subsection (5) 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.
- (8) In subsection (4) 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.
- (9) In this section “enactment” does not include an enactment contained in an order, regulation or other instrument made under an Act.

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### **289D Power to alter sums specified in certain provisions.**

- (1) If it appears to the Secretary of State that there has been a change in the value of money since the last occasion when the prescribed sum (within the meaning of section 289B above) was fixed (whether by the coming into force of a provision of this Act or by order under this subsection), the Secretary of State may by order substitute for that sum such other sum as appears to him justified by the change.
- (2) Where it appears to the Secretary of State that the difference between a sum to which subsection (3) below applies and the prescribed sum (within the meaning of section 289B above) has been or would be altered or eliminated by an order made or proposed to be made under subsection (1) above, he may by order amend the enactment specifying the first-mentioned sum so as to substitute for that sum such other sum as appears to him to be justified by a change in the value of money appearing to him to have taken place between—
  - (a) the last occasion on which the sum in question was fixed; and
  - (b) the making of the order or proposed order under subsection (1) above.
- (3) This subsection applies to any sum specified in any enactment contained in the Criminal Law Act 1977 or in any Act (including this Act) passed before, or in the same Session as, that Act as—
  - (a) the maximum fine which may be imposed on summary conviction of an offence triable either summarily or on indictment;
  - (b) the maximum fine which, in the exercise of any power by subordinate instrument to impose penal provisions, may be authorised on summary conviction in respect of an offence triable either summarily or on indictment; or
  - (c) the maximum amount of caution which an accused may be ordained to find under section 284(c) above.
- (4) An order under subsection (1) or (2) above—
  - (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be revoked by a subsequent order thereunder, and
  - (b) without prejudice to Schedule 14 to the Criminal Law Act 1977, shall not affect the punishment for an offence committed before that order comes into force.]”.

#### **Textual Amendments**

**F5** Sch. 11 repealed (S.) (1.4.1996) by [1995 c. 40, ss. 6, 7\(2\)](#), [Sch.5](#).

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F6

#### **Textual Amendments**

**F6** Sch. 11 paras. 3, 6 repealed [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

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F77 For section 394(b) there shall be substituted the following paragraph—  
“(b) to substitute for imprisonment a fine which in the case of an offence triable either summarily or on indictment shall not exceed the prescribed sum (within the meaning of section 289B above), and in the case of an offence triable only summarily shall not exceed £200 (in either case, with or without caution for good behaviour, not exceeding the amount and the period competent under this Part of this Act):]”.

**Textual Amendments**  
F7 Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch.5.

F88 In section 397(1) for the words “or under section 72A of the <sup>M1</sup>Magistrates’ Courts Act 1952” there shall be substituted the words “, under section 72A of the Magistrates’ Courts Act 1952 or under section 104A of the <sup>M2</sup>Magistrates’ Courts Act (Northern Ireland) 1964]”.

**Textual Amendments**  
F8 Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch.5.

**Marginal Citations**  
M1 1952 c. 55.  
M2 1964 c. 21.

F99 In section 414(1) after the word “convicted” there shall be inserted the words “summarily by a sheriff or stipendiary magistrate]”.

**Textual Amendments**  
F9 Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch.5.

F1010 In section 462, in the interpretation of “fine” there shall be inserted after the word “includes” the words “(a) any pecuniary penalty, and (b)]”.

**Textual Amendments**  
F10 Sch. 11 repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch.5.

11—13. . . . . F11

**Textual Amendments**  
F11 Sch. 11 paras. 11, 12, 13 repealed by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 8

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