



Criminal Law Act 1977

1977 CHAPTER 45

PART III

CRIMINAL PROCEDURE, PENALTIES, ETC.

Penalties

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 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

Status: This is the original version (as it was originally enacted).

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.