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Magistrates' Courts Act 1980

1980 CHAPTER 43

PART I **U.K.**

CRIMINAL JURISDICTION AND PROCEDURE

Powers in respect of offenders

31 **General limit on power of magistrates' court to impose imprisonment.** **E+W**

- (1) Without prejudice to section 133 below, a magistrates' court shall not have power to impose imprisonment [^{F1}or youth custody] for more than 6 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 [^{F1}or youth custody] for more than 6 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.
- (4) In subsection (3) above "fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

Textual Amendments

F1 Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 48](#)

Modifications etc. (not altering text)

C1 [S. 31](#) extended (N.I.) by [Finance Act 1983 \(c. 28, SIF 40:2\)](#), s. 47, [Sch. 9 para. 1\(1\)\(2\)](#)

C2 [S. 31\(1\)\(2\)](#) excluded by [Criminal Attempts Act 1981 \(c. 47, SIF 39:1\)](#), s. 4(5)(b)(ii)

C3 [S. 31\(3\)](#) modified by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 75(2), 123(6), [Sch. 8 para. 16](#)

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32 Penalties on summary conviction for offences triable either way. E+W

- (1) On summary conviction of any of the offences triable either way listed in Schedule 1 to this Act a person shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the prescribed sum or both, except 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) F2
- (2) For any offence triable either way which is not listed in Schedule 1 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) Subsection (2) above shall not apply on summary conviction of any of the following offences:—
 - (a) offences under section 5(2) of the ^{M1}Misuse of Drugs Act 1971 (having possession of a controlled drug) where the controlled drug in relation to which the offence was committed was a Class B or Class C drug;
 - (b) offences under the following provisions of that Act, where the controlled drug in relation to which the offence was committed was a Class C drug, namely—
 - (i) section 4(2) (production, or being concerned in the production, of a controlled drug);
 - (ii) section 4(3) (supplying or offering a controlled drug or being concerned in the doing of either activity by another);
 - (iii) section 5(3) (having possession of a controlled drug with intent to supply it to another);
 - (iv) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there);
 - (v) section 12(6) (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs); or
 - (vi) section 13(3) (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).

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- (6) 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 the exercise of that power; and
 - (b) the amount to which that fine may be restricted in the 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.

(7) ^{F3}

(8) In subsection (5) above “controlled drug”, “Class B drug” and “Class C drug” have the same meaning as in the ^{M2}Misuse of Drugs Act 1971.

(9) In this section—

“fine” includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation;

“the prescribed sum” means [^{F4}£5,000] or such sum as is for the time being substituted in this definition by an order in force under section 143(1) below;

“relevant enactment” means an enactment contained in the ^{M3}Criminal Law Act 1977 or in any Act passed before, or in the same Session as, that Act.

Textual Amendments

- F2** S. 32(1)(c) repealed by [Criminal Attempts Act 1981 \(c. 47, SIF 39:1\)](#), s. 10, **Sch. Pt. 1**
- F3** S. 32(7) repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(2), **Sch. 8 para. 16, Sch. 16**
- F4** Word in s. 32(9) substituted (*1.10.1992*) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 17(2)(c), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

- C4** S. 32 amended by [S.I. 1984/703 \(N.I. 3\)](#), **art. 4(7)**
- C5** S. 32 extended with modifications (Isle of Man) (1.12.1992) by [S.I. 1992/2670](#), **art. 2(b)**
- C6** S. 32 extended with modifications (Guernsey) (1.2.1993) by [S.I. 1992/3202](#), art. 2(b), **Sch. para. 2**
- C7** S. 32 extended (N.I.) by [Finance Act 1983 \(c. 28, SIF 40:2\)](#), s. 47, **Sch. 9 para. 1(1)(2)**, [Copyright \(Amendment\) Act 1983 \(c. 42, SIF 32\)](#), **s. 1**, [Car Tax Act 1983 \(c. 53, SIF 40:2\)](#), s. 1(4), **Sch. 1 para. 8(6)(a)**, [Value Added Tax Act 1983 \(c. 55, SIF 40:2\)](#), **s. 48(2)(a)**
- S. 32 extended (N.I.) by [Telecommunications Act 1984 \(c.12, SIF 96\)](#), **s. 106(2)(a)**
- C8** S. 32(9) extended (N.I.) by [Wireless Telegraphy Act 1949 \(c. 54, SIF 96\)](#), **s. 14(9)** (as added by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 75(2), **Sch. 3 para. 2**)

Marginal Citations

- M1** 1971 c. 38.
- M2** 1971 c. 38.
- M3** 1977 c. 45.

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33 Maximum penalties on summary conviction in pursuance of section 22. **E+W**

- (1) Where in pursuance of subsection (2) of section 22 above a magistrates' court proceeds to the summary trial of an information, then, if the accused is summarily convicted of the offence—
- (a) [^{F5}subject to subsection (3) below] the court shall not have power to impose on him in respect of that offence imprisonment for more than 3 months or a fine greater than [^{F6}level 4 on the standard scale]; and
 - (b) section 38 below shall not apply as regards that offence.
- (2) In subsection (1) above “fine” includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.
- [^{F7}(3) Paragraph (a) of subsection (1) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).]

Textual Amendments

- F5** Words in s. 33(1)(a) inserted (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), s. 2(3)(a); S.I. 1992/764, art. 2
- F6** Words in s. 33(1)(a) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(b), 101(1), Sch. 4 Pt. II, Sch. 12 para. 6 (with s. 28); S.I. 1992/333, art. 2(2), Sch.2
- F7** S. 33(3) inserted (1.4.1992) by Aggravated Vehicle-Taking Act 1992 (c. 11), s. 2(3)(b); S.I. 1992/764, art. 2

34 Mitigation of penalties, etc. **E+W**

- (1) Where under any enactment whether passed before or after the commencement of this Act a magistrates' court has power to sentence an offender to imprisonment for a period specified by the enactment, or to a fine of an amount specified by the enactment, then, except where an Act passed after 31st December 1879 expressly provides to the contrary, the court may sentence him to imprisonment for less than that period or, as the case may be, to a fine of less than that amount.
- (2) Where under any such enactment an offender sentenced on summary conviction to imprisonment or a fine is required to enter into a recognizance with or without sureties to keep the peace or observe any other condition, the court convicting him may dispense with or modify the requirement.
- (3) Where under any such enactment a magistrates' court has power to sentence an offender to imprisonment or other detention but not to a fine, then, except where an Act passed after 31st December 1879 expressly provides to the contrary, the court may, instead of sentencing him to imprisonment or other detention, impose a fine which—
- (a) for an offence triable either way, shall not exceed the prescribed sum within the meaning of section 32 above; and
 - (b) for a summary offence, shall—
 - (i) not exceed [^{F8}level 3 on the standard scale]; 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.

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Textual Amendments

- F8** Words in s. 34(3)(b) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(b), 101(1), Sch. 4, Pt.II, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**

^{F9}**35** **E+W**

Textual Amendments

- F9** S. 35 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**

36 **Restriction on fines in respect of young persons.** **E+W**

- (1) Where a person under [^{F10}18 years of age] is found guilty by a magistrates' court of an offence for which, apart from this section, the court would have power to impose a fine of an amount exceeding [^{F11}£1000], the amount of any fine imposed by the court shall not exceed [^{F11}£1000].
- (2) In relation to a person under the age of 14 subsection (1) above shall have effect as if for the words "^{F12}£1000", in both the places where they occur, there were substituted the words "^{F13}£250"; ^{F14} . . .

Textual Amendments

- F10** Words in s. 36(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(c), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch.2**
- F11** Words in s. 36(1) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(a), 101(1), **Sch. 12**, para. 6 (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**
- F12** Word in s. 36(2) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2)(a), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**
- F13** Word in s. 36(2) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(2), 101(1), **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**
- F14** Words in s. 36(2) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**

^{F15}**36A** **Alterations of names of petty sessions areas in inner London area.** **E+W**

- (1) The committee of magistrates may at any time submit to the Secretary of State a draft order altering the name of any petty sessions area in the inner London area.
- (2) Where the committee submit a draft order to the Secretary of State under this section, he may by statutory instrument make the order either in the terms of the draft or with such modifications as he thinks fit.
- (3) Any order under this section may contain transitional and other consequential provisions.]

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Textual Amendments

F15 S. 36A inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 164(3), [Sch. 8 para. 16](#)

37 **Committal to Crown Court with a view to borstal sentence.** E+W

^{F16}(1) Where a person who is not less than 15 [^{F17}but under [^{F18}18] years old] is convicted by a magistrates' court of an offence punishable on conviction on indictment with a term of imprisonment exceeding six months, then, if the court is of opinion that he should be sentenced to a greater term of youth custody than it has power to impose, the court may commit him in custody or on bail to the Crown Court for sentence.

^{F19}(1A)]

- (2) A person committed in custody under subsection (1) above shall be committed—
- (a) if the court has been notified by the Secretary of State that a remand centre is available for the reception, from that court, of persons of the class or description of the person committed, to a remand centre;
 - (b) if the court has not been so notified, to a prison.

Textual Amendments

F16 S. 37(1)(1A) substituted for subsection (1) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 14 para. 49](#)

F17 Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(1), [Sch. 15 para. 67](#)

F18 Words '18 years old' in s. 37(1) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 60(2)(a), 101(1), [Sch. 12 para. 16\(1\)](#); S.I. 1992/333, art. 2(2), [Sch.2](#)

F19 S. 37(1A) repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(2), [Sch.13](#); S.I. 1992/333, art. 2(2), [Sch.2](#)

^{F20}38 **Committal for sentence on summary trial of offence triable either way.** E+W

(1) This section applies where on the summary trial of an offence triable either way (not being an offence as regards which this section is excluded by section 33 above) a person who is not less than 18 years old is convicted of the offence.

- (2) If the court is of opinion—
- (a) that the offence or the combination of the offence and [^{F21}one or more] offences associated with it was so serious that greater punishment should be inflicted for the offence than the court has power to impose; or
 - (b) in the case of a violent or sexual offence ^{F22}. . . , that a [^{F23}custodial sentence] for a term longer than the court has power to impose is necessary to protect the public from serious harm from him,

the court may, in accordance with section 56 of the Criminal Justice Act 1967, commit the offender in custody or on bail to the Crown Court for sentence in accordance with the provisions of section 42 of the Powers of Criminal Courts Act 1973.

(3) Paragraphs (a) and (b) of subsection (2) above shall be construed as if they were contained in Part I of the Criminal Justice Act 1991.

(4) The preceding provisions of this section shall apply in relation to a corporation as if—

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- (a) the corporation were an individual who is not less than 18 years old; and
- (b) in subsection (2) above, paragraph (b) and the words “in custody or on bail” were omitted.]

Textual Amendments

- F20** S.38 substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 25(1) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2
- F21** Words in s. 38(2)(a) substituted (16.8.1993) by 1993 c. 36, s. 66(8); S.I. 1993/1968, art. 2(1), Sch. 1
- F22** Words in s. 38(2)(b) repealed (3.2.1995) by 1994 c. 33, s. 168(1)(3), Sch. 9 para. 15(a), Sch. 11; S.I. 1995/127, art. 2(1), Sch. 1 Appendices A,C
- F23** Words in s. 38(2)(b) substituted (3.2.1995) by 1994 c. 33, s. 168(1), Sch. 9 para. 15(b) (subject to savings in S.I. 1995/127, art. 2(2), Sch. 2 para. 5); S.I. 1995/127, art. 2(1)(2), Sch. 1 AppendixA, Sch. 2 para. 5

VALID FROM 01/10/1997

[^{F24}38A Committal for sentence on indication of guilty plea to offence triable either way. **E+W**

- (1) This section applies where—
 - (a) a person who is 18 or over appears or is brought before a magistrates' court (“the court”) on an information charging him with an offence triable either way (“the offence”);
 - (b) he or his representative indicates that he would plead guilty if the offence were to proceed to trial; and
 - (c) proceeding as if section 9(1) above was complied with and he pleaded guilty under it, the court convicts him of the offence.
- (2) If the court has committed the offender to the Crown Court for trial for one or more related offences, that is to say, one or more offences which, in its opinion, are related to the offence, it may, in accordance with section 56 of the Criminal Justice Act 1967, commit him in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with the provisions of section 42 of the Powers of Criminal Courts Act 1973.
- (3) If the power conferred by subsection (2) above is not exercisable but the court is still to inquire, as examining justices, into one or more related offences—
 - (a) it shall adjourn the proceedings relating to the offence until after the conclusion of its inquiries; and
 - (b) if it commits the offender to the Crown Court for trial for one or more related offences, it may then exercise that power.
- (4) Where the court—
 - (a) commits the offender to the Crown Court to be dealt with in respect of the offence; and
 - (b) does not state that, in its opinion, it also has power so to commit him under section 38(2) above,

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the provisions of section 42 of the Powers of Criminal Courts Act 1973 shall not apply unless he is convicted before the Crown Court of one or more of the related offences.

- (5) Where those provisions of that section do not apply, the Crown Court shall have power to deal with the offender in respect of the offence in any manner in which the court might have dealt with him.
- (6) For the purposes of this section one offence is related to another if, were they both to be prosecuted on indictment, the charges for them could be joined in the same indictment.]

Textual Amendments

F24 S. 38A inserted (1.10.1997) by 1997 c. 43, s.51; S.I. 1997/2200, art.2(1)(k)

39 Cases where magistrates' court may remit offender to another such court for sentence. **E+W**

- (1) Where a person who has attained [^{F25}the age of 18 years] ("the offender") has been convicted by a magistrates' court ("the convicting court") of an offence to which this section applies ("the instant offence") and—
 - (a) it appears to the convicting court that some other magistrates' court ("the other court") has convicted him of another such offence in respect of which the other court has neither passed sentence on him nor committed him to the Crown Court for sentence nor dealt with him in any other way; and
 - (b) the other court consents to his being remitted under this section to the other court,

the convicting court may remit him to the other court to be dealt with in respect of the instant offence by the other court instead of by the convicting court.
- (2) The offender, if remitted under this section, shall have no right of appeal against the order of remission.
- (3) Where the convicting court remits the offender to the other court under this section, it shall adjourn the trial of the information charging him with the instant offence, and—
 - (a) section 128 below and all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings shall have effect in relation to the convicting court's power or duty to remand the offender on that adjournment as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted; and
 - (b) subject to subsection (4) below, the other court may deal with the case in any way in which it would have power to deal with it (including, where applicable, the remission of the offender under this section to another magistrates' court in respect of the instant offence) if all proceedings relating to that offence which took place before the convicting court had taken place before the other court.
- (4) Nothing in this section shall preclude the convicting court from making any order which it has power to make under section 28 of the ^{M4}Theft Act 1968 (orders for restitution) by virtue of the offender's conviction of the instant offence.

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- (5) Where the convicting court has remitted the offender under this section to the other court, the other court may remit him back to the convicting court; and the provisions of subsection (3) above (so far as applicable) shall apply with the necessary modifications in relation to any remission under this subsection.
- (6) This section applies to—
- (a) any offence punishable with imprisonment; and
 - (b) any offence in respect of which the convicting court has a power or duty to order the offender to be disqualified under [F26]section 34 or 36 of the Road Traffic Offenders Act 1988](disqualification for certain motoring offences);
- and in this section “conviction” includes a finding under section 30(1) above that the person in question did the act or made the omission charged, and “convicted” shall be construed accordingly.

Textual Amendments

F25 Words in s. 39(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 68(d), 101(1), Sch. 8 para. 6(1)(a), **Sch. 12 para. 22(1)**; S.I. 1992/333, art. 2(2), **Sch.2**.

F26 Words substituted (15.5.1989) by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 4, 5, Sch. 3 para. 20, Sch. 4 paras. 1, 2

Marginal Citations

M4 1968 c. 60.

40 Restriction on amount payable under compensation order of magistrates' court. **E+W**

- (1) The compensation to be paid under a compensation order made by a magistrates' court in respect of any offence of which the court has convicted the offender shall not exceed [F27]£5,000]; and the compensation or total compensation to be paid under a compensation order or compensation orders made by a magistrates' court in respect of any offence or offences taken into consideration in determining sentence shall not exceed the difference (if any) between the amount or total amount which under the preceding provisions of this subsection is the maximum for the offence or offences of which the offender has been convicted and the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.
- (2) In subsection (1) above “compensation order” has the meaning assigned to it by section 35(1) of the ^{M5}Powers of Criminal Courts Act 1973.

Textual Amendments

F27 Word in s. 40(1) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 17(3)(a), 101(1), Sch. 4 Pt.I, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

M5 1973 c. 62.

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