



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART I

CRIMINAL JURISDICTION AND PROCEDURE

Powers in respect of offenders

^{F1}31

Textual Amendments

^{F1} S. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

32 Penalties on summary conviction for offences triable either way.

- (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)
- (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

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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).
- (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;

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“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. I**
- 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 (*I.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)

- C1** S. 32 amended by S.I. 1984/703 (N.I. 3), **art. 4(7)**
- C2** S. 32 extended with modifications (Isle of Man) (1.12.1992) by S.I. 1992/2670, **art. 2(b)**
- C3** S. 32 extended with modifications (Guernsey) (1.2.1993) by S.I. 1992/3202, art. 2(b), **Sch. para. 2**
- C4** 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)
- C5** 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.

33 Maximum penalties on summary conviction in pursuance of section 22.

- (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) [^{F7}section 3 of the Powers of Criminal Courts (Sentencing) Act 2000] 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.
- [^{F8}(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**

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- 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** Words in s. 33(1)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 65**
- F8** 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.

- (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 [^{F9}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.

Textual Amendments

F9 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**

^{F10}**35**

Textual Amendments

F10 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**

^{F11}**36**

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Textual Amendments

F11 S. 36 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[^{F12}**36A Alterations of names of petty sessions areas in inner London area.**

- (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.]

Textual Amendments

F12 S. 36A inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 123(6), 164(3), **Sch. 8 para. 16**

^{F13}**37**

Textual Amendments

F13 S. 37 repealed (1.4.2000) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 41, **Sch.10**; S.I. 1999/3426, **art. 3(b)**

^{F14}**38**

Textual Amendments

F14 S. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with ss. Sch. 11 paras. 1, 2)

^{F15}**38A**

Textual Amendments

F15 S. 38A repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with ss. Sch. 11 paras. 1, 2)

^{F16}**39**

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Textual Amendments

F16 S. 39 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

^{F17} **40**

Textual Amendments

F17 S. 40 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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