



# Criminal Justice (Scotland) Act 1987

## 1987 CHAPTER 41

### PART II

#### MISCELLANEOUS

##### *Sentencing power of the sheriff*

#### **58 Sentencing power of sheriff in solemn procedure**

- (1) In section 2 of the 1975 Act (which limits the term of imprisonment which the sheriff may impose on indictment)—
- (a) in subsection (2), for the words "two years" there shall be substituted the words "three years";
  - (b) after subsection (2) there shall be inserted the following subsections—
    - “(3) Subject to subsection (4) below, where under any enactment passed or made before the commencement of section 58 of the Criminal Justice (Scotland) Act 1987 an offence is punishable on conviction on indictment by imprisonment for a term exceeding two years but the enactment either expressly or impliedly restricts the power of the sheriff to impose a sentence of imprisonment for a term exceeding two years, it shall be competent for the sheriff to impose a sentence of imprisonment for a term exceeding two but not exceeding three years.
    - (4) Nothing in subsection (3) above shall authorise the imposition by the sheriff of a sentence in excess of the sentence specified by the enactment as the maximum sentence which may be imposed on conviction of the offence.”.
- (2) In section 104 of the 1975 Act, after subsection (1) there shall be inserted the following new subsection—
- “(1A) Where under any enactment an offence is punishable on conviction on indictment by imprisonment for a term exceeding three years but the enactment either expressly or impliedly restricts the power of the sheriff to

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*Status: This is the original version (as it was originally enacted).*

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impose a sentence of imprisonment for a term exceeding three years, it shall be competent for the sheriff to remit the convicted person to the High Court for sentence under subsection (1) above; and it shall be competent for the High Court to pass any sentence which it could have passed if the person had been convicted before it.”.

- (3) In section 221(1) of that Act (abolition of penal servitude and hard labour), in the proviso, for the words "two years" there shall be substituted the words "three years".