



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART V

JURISDICTION, IMPRISONMENT, FINES, ETC.

*Maximum fines under subordinate legislation*

#### **51 Statutory maximum as penalty on summary conviction for offences triable either way in subordinate legislation.**

- (1) For any offence triable either way under a subordinate instrument made before the commencement of this section, the maximum fine which may be imposed on summary conviction shall by virtue of this subsection be the statutory maximum unless the offence is one for which by virtue of the instrument a larger maximum fine may be imposed on summary conviction.
- (2) Where apart from this section the maximum fine would be one amount in the case of a first conviction and 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 instrument as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (4) Where there is under any enactment (however framed or worded) contained in an Act passed before the commencement of this section a power by subordinate instrument to impose penal provisions, being a power which allows the creation of offences triable either way, 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 statutory maximum unless some larger maximum fine can be authorised on summary conviction of such an offence by virtue of an enactment contained in an Act passed before the commencement of this section.

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- (5) Where there is under any enactment (however framed or worded) contained in an Act passed before the commencement of this section a power by subordinate instrument to create offences triable either way, the maximum fine for an offence triable either way so created may be expressed as a fine not exceeding the statutory maximum.
- (6) Subsection (5) above has effect in relation to exercises of powers before as well as after the commencement of this section.
- (7) Nothing in this section shall affect the punishment for an offence committed before the commencement of this section.
- (8) In this section and sections 52, 53, 55, 57 and 59 below “fine” includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

**52 Penalties on conviction for summary offences under subordinate legislation— conversion of references to amounts to references to levels on scale.**

- (1) Where under a relevant subordinate instrument the maximum fine on conviction of a summary offence specified in the instrument is an amount shown in the second column of the standard scale, the reference in the instrument to the amount of the maximum fine shall be construed as a reference to the level in the first column of the standard scale corresponding to that amount.
- (2) In subsection (1) above “relevant subordinate instrument” means any instrument made by virtue of an enactment or instrument after 30th April 1984 and before the commencement of this section.
- (3) Subsection (1) above shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued after conviction or the occurrence of any other specified event.
- (4) Where there is—
  - (a) under any enactment (however framed or worded) contained in an Act passed before the commencement of this section;
  - (b) under any instrument (however framed or worded) made by virtue of such an enactment,
 a power to provide by subordinate instrument that a person, as regards any summary offence (whether or not created by the instrument) shall be liable on conviction to a fine, a person may be so made liable to a fine not exceeding a specified level on the standard scale.
- (5) Subsection (4) above has effect in relation to exercises of powers before as well as after the commencement of this section.

**53 Powers to specify maximum fines for summary offences under subordinate instruments— conversion of references to amounts to references to levels on scale—England and Wales.**

- (1) Where an instrument which was made under an enactment on or after 11th April 1983 but before this section came into force confers on any authority other than a harbour authority a power by subordinate instrument to make a person liable to a fine on conviction of a summary offence of an amount shown in the second column of the standard scale, as that scale had effect when the instrument was made, a reference

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to the level in the first column of the standard scale which then corresponded to that amount shall be substituted for the reference in the instrument conferring the power to the amount of the fine.

- (2) If an order under section 143 of the <sup>M1</sup>Magistrates' Courts Act 1980 alters the sums specified in section 37(2) of the <sup>M2</sup>Criminal Justice Act 1982, the second reference to the standard scale in subsection (1) above is to be construed as a reference to that scale as it has effect by virtue of the order.
- (3) This section shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a maximum fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued.

**Marginal Citations**

**M1** 1980 c. 43.

**M2** 1982 c. 48.

**54 Fines on summary conviction for offences under subordinate instruments—conversion to references to levels on scale—Scotland.**

In the <sup>M3</sup>Criminal Procedure (Scotland) Act 1975, after section 289GC (which is inserted by section 56 of this Act) there shall be inserted the following section—

**“289GD Fines on summary conviction for offences under subordinate instruments—conversion to references to levels on scale.**

- (1) Where an instrument which was made under an enactment on or after 11th April 1983 but before the commencement of section 54 of the Criminal Justice Act 1988 confers on any authority other than a harbour authority a power by subordinate instrument to make a person liable on summary conviction to a fine of an amount shown in the second column of the standard scale, as that scale had effect when the instrument was made, a reference to the level in the first column of the standard scale which then corresponded to that amount shall be substituted for the reference in the instrument conferring the power to the amount of the fine.
- (2) This section shall not affect so much of any instrument as (in whatever words) makes a person liable on summary conviction to a maximum fine not exceeding a specified amount for each period of a specified length during which a continuing offence is continued”.

**Marginal Citations**

**M3** 1975 c. 21.

**55 Fines under secondary subordinate instruments— England and Wales.**

- (1) This section applies to any instrument (however framed or worded) which—

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- (a) was made before 11th April 1983 (the date of the commencement of sections 35 to 50 of the <sup>M4</sup>Criminal Justice Act 1982); and
  - (b) confers on any authority other than a harbour authority a power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the latter instrument), liable on conviction to a maximum fine of a specified amount not exceeding £1,000,
- but does not affect so much of any such instrument as (in whatever words) confers a power by subordinate instrument to make a person liable on conviction to a fine for each period of a specified length during which a continuing offence is continued.
- (2) The maximum fine to which a subordinate instrument made by virtue of an instrument to which this section applies may provide that a person shall be liable on conviction of a summary offence is—
- (a) if the specified amount is less than £25 , level 1 on the standard scale;
  - (b) if it is £25 or more but less than £50, level 2;
  - (c) if it is £50 or more but less than £200, level 3;
  - (d) if it is £200 or more but less than £400, level 4; and
  - (e) if it is £400 or more, level 5.
- (3) Subject to subsection (5) below, where an instrument to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine in respect of a specified quantity or a specified number of things, that fine shall be treated for the purposes of this section as being the maximum fine to which a person may be made liable by virtue of the instrument.
- (4) Where an instrument to which this section applies confers a power to provide for different maximum fines in relation to different circumstances or persons of different descriptions, the amounts specified as those maximum fines are to be treated separately for the purposes of this section.
- (5) Where an instrument to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine in respect of a specified quantity or a specified number of things but also confers a power by subordinate instrument to make a person, as regards such an offence, liable on conviction to an alternative fine, this section shall have effect in relation—
- (a) to the alternative fine; and
  - (b) to any amount that the instrument specifies as the maximum fine for which a subordinate instrument made in the exercise of the power conferred by it may provide,
- as well as in relation to the fine mentioned in subsection (3) above.
- (6) Section 36 of the <sup>M5</sup>Criminal Justice Act 1982 (abolition of enhanced penalties under subordinate instruments) shall have effect as if the references in it to an Act included references to an instrument and the reference in subsection (2) to the coming into force of the section were a reference, in relation to an instrument conferring a power such as is mentioned in subsection (1), to the coming into force of this section.

#### Marginal Citations

- M4** 1982 c. 48.  
**M5** 1982 c. 48.

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## 56 Fines under secondary subordinate instruments: Scotland.

- (1) In the <sup>M6</sup>Criminal Procedure (Scotland) Act 1975, after section 289GB (which was inserted by the <sup>M7</sup>Criminal Justice (Scotland) Act 1987) there shall be inserted the following section—

### “289GC Fines under secondary subordinate instruments— Scotland.

- (1) This section applies to any instrument (however framed or worded) which—
- (a) was made before 11th April 1983 (the date of commencement of Part IV of the Criminal Justice Act 1982);
  - (b) confers on any authority other than a harbour authority a power by subordinate instrument to make a person, as regards any summary offence (whether or not created by the latter instrument), liable on conviction to a maximum fine of a specified amount not exceeding £1,000,
- but does not affect so much of any such instrument as (in whatever words) confers a power by subordinate instrument to make a person liable on conviction to a fine for each period of a specified length during which a continuing offence is continued.
- (2) The maximum fine to which a subordinate instrument made by virtue of an instrument to which this section applies may provide that a person shall be liable on conviction of a summary offence is—
- (a) if the specified amount is less than £25, level 1 on the standard scale;
  - (b) if it is £25 or more but less than £50, level 2;
  - (c) if it is £50 or more but less than £200, level 3;
  - (d) if it is £200 or more but less than £400, level 4; and
  - (e) if it is £400 or more, level 5.
- (3) Subject to subsection (5) below, where an instrument to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine in respect of a specified quantity or a specified number of things, that fine shall be treated for the purposes of this section as being the maximum fine to which a person may be made liable by virtue of the instrument.
- (4) Where an instrument to which this section applies confers a power to provide for different maximum fines in relation to different circumstances or persons of different descriptions, the amount specified as those maximum fines are to be treated separately for the purposes of this section.
- (5) Where an instrument to which this section applies confers a power by subordinate instrument to make a person, as regards a summary offence, liable on conviction to a fine in respect of a specified quantity or a specified number of things but also confers a power by subordinate instrument to make a person, as regards such an offence, liable on conviction to an alternative fine, this section shall have effect in relation—
- (a) to the alternative fine; and
  - (b) to any amount that the instrument specifies as the maximum fine for which a subordinate instrument made in the exercise of the power conferred by it may provide,

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as well as in relation to the fine mentioned in subsection (3) above.”

- (2) Section 289E of the <sup>M8</sup>Criminal Procedure (Scotland) Act 1975 (penalties for first and subsequent convictions of summary offences to be the same) shall have effect as if the references in it to an Act included references to an instrument and the reference in subsection (5) to the commencement of the section were a reference, in relation to an instrument conferring a power such as is mentioned in subsection (1), to the coming into force of this section.

**Marginal Citations**

- M6** 1975 c. 21.
- M7** 1987 c. 41.
- M8** 1975 c. 21.

**57 Powers of harbour authorities to provide for maximum fines up to level 4 on standard scale.**

- (1) Where a harbour authority is empowered to provide—
  - (a) in an instrument made by virtue of an enactment; or
  - (b) in an instrument made by virtue of an instrument made under an enactment,
 that a person, as regards any summary offence (whether or not created by the instrument), shall be liable on conviction to a fine not exceeding an amount less than level 4 on the standard scale, the power shall extend by virtue of this section to making him liable to a fine not exceeding level 4.
- (2) Where any enactment or instrument (“the enabling legislation”) (however expressed) provides that a person who contravenes any provision of an instrument (“a regulatory instrument”) made by a harbour authority—
  - (a) by virtue of the enabling legislation; or
  - (b) by virtue of an instrument made under the enabling legislation,
 shall be guilty of a summary offence and liable on conviction to a fine not exceeding an amount less than level 4 on the standard scale, the power conferred by the enabling legislation shall by virtue of this section enable the harbour authority to provide in a regulatory instrument that a person, as regards any summary offence created by the regulatory instrument, shall be liable on summary conviction to a fine not exceeding level 4.

<sup>F1</sup>58 .....

**Textual Amendments**

- F1** S. 58 repealed (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), Sch. 16 Pt. IX; S.I. 1993/274, art.2

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