

## HEALTH AND SAFETY (OFFENCES) ACT 2008

The Health and Safety Act amends Section 33 of the **Health and Safety at Work, etc. Act 1974 (HSWA)**. It replaces the penalty provisions of section 33(1A) to (4) of the 1974 Act by inserting a new Schedule 3A to the 1974 Act. This Schedule sets out the mode of trial and maximum penalties for the health and safety offences set out in section 33(1)(a) to (o) and for offences under the "existing statutory provisions" (i.e. pre-dating the 1974 Act) where no other penalty is specified. The act effectively:-

1. Raise the maximum fine which may be imposed in the lower courts to £20,000 for most health and safety offences;
2. Make imprisonment an option for more health and safety offences in both the lower and higher courts;
3. Make certain offences, which are currently triable only in the lower courts, triable in either the lower or higher courts.
4. It extends to the whole of the United Kingdom.

Offence	Mode of Trial	Penalty on summary conviction	Penalty on conviction on indictment
An offence under section 33(1)(a) consisting of a failure to discharge a duty to which a person is subject by virtue of sections 2 to 6.	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(a) consisting of a failure to discharge a duty to which a person is subject by virtue of section 7.	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(b) consisting of a contravention of section 8.	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(b) consisting of a contravention of section 9.	Summarily or on indictment.	A fine not exceeding £20,000.	A fine.
An offence under section 33(1)(c).	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(d).	Summarily only.	A fine not exceeding level 5 on the standard scale.	
An offence under section 33(1)(e), (f) or (g).	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(h).	Summarily only.	Imprisonment for a term not exceeding 51 weeks (in England and Wales) or 12 months (in Scotland), or a fine not exceeding level 5 on the standard scale, or both.	
An offence under section 33(1)(i).	Summarily or on indictment.	A fine not exceeding the statutory maximum.	A fine.
An offence under section 33(1)(j).	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(k), (l) or (m).	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 33(1)(n).	Summarily only.	A fine not exceeding level 5 on the standard scale.	
An offence under section 33(1)(o).	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under the existing statutory provisions for which no other penalty is specified.	Summarily or on indictment.	Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.

**Notes:**

Where the table refers to imprisonment for a term not exceeding 12 months, this is to be read as a reference to a term not exceeding 6 months until the coming into force of section 154(1) of the Criminal Justice Act 2003. This provision,

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which has not yet been brought into force, increases from 6 months to 12 months the maximum term of imprisonment that may be imposed, on summary conviction, for an offence triable either summarily or on indictment.

Similarly, where the table refers to imprisonment for a term not exceeding 51 weeks, until section 281(5) of that Act is brought into force this should be read as a reference to a term not exceeding 6 months. This provision has the effect of increasing the maximum term of imprisonment that may be imposed on conviction of a summary-only offence from 6 months to 51 weeks.

These provisions of the Criminal Justice Act 2003 extend only to England and Wales.

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