

Summary Vs. Indictable

examples

procedures

sentences

Offences - Definitions

Summary: less serious criminal offences

Indictable: more serious criminal offences

Hybrid: offences which can be dealt with as a summary or an indictable offence

Summary Offences - Examples

- soliciting for purpose of prostitution
- communicating for purpose of obtaining sexual services
- public disturbance
- being in an illegal gaming house
- driving vehicle without owner's permission

Summary Offences - Procedural Law

- prosecution must begin within 6 months of crime;
- police must observe crime in order to effect an arrest;
- tried by judge alone (no jury).
- maximum penalty: \$2000.00 fine and/or 6 months imprisonment

Indictable Offences - Examples

- murder
- rape
- aggravated assault
- arson
- use of firearm in commission of offence
- making/using counterfeit money
- cattle theft (No joke! 10 years! S. 338(2))

Indictable Offences - Procedural Law

- No limits regarding when prosecution must begin after crime.
- Police need not observe crime in order to effect an arrest.
- Tried by judge alone or jury.
- Maximum penalty: - any fine
- life imprisonment

**Indictable Offences:
Maximum Penalties**

Fines: no limit

Imprisonment: (5 categories)

- 2 years maximum
- 5 years maximum
- 10 years maximum
- 14 years maximum
- Life

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Hybrid Offences

- can be treated as either a summary or an indictable offence;
- Crown decides how specific case should be treated;
- until charge is laid in court, always treated as an indictable case;

Hybrid offences are otherwise known as "Crown electable" or "dual procedure" offences.

Hybrid Offences - Examples


- Theft Under \$5000.00, S. 322-332 (2 yr / 6 mo, \$2000)
- Fraud Under \$5000.00, S. 380 (2 yr / 6 mo, \$2000)
- Forcible Entry, S. 72, 73 (2 yr / 6 mo, \$2000)
- Assault, S. 265, 266 (2 yr / 6 mo, \$2000)
- Concealed Weapon, S. 89 (5 yr / 6 mo, \$2000)
- Public Mischief, S. 140 (5 yr / 6 mo, \$2000)
- Obstruct or Resist Police, S. 129 (2 yr / 6 mo, \$2000)
- Sexual Interference, S. 151 (10 yr / 6 mo, \$2000)

**Hybrid Offences:
How to Decide?**

- Is there a past criminal record?
- Was violence or weapons involved?
- What is the value of items at issue?

**Maximum Life Sentence Offences:
Examples**

High Treason, s.46(1)
 Treason, s.46(2) (a), (c), (d)
 Treason, s.46(2) (b) and (e): *(During a state of war)*
 First Degree Murder, s.235(1)
 Second Degree Murder, s.235(1)
 Interference with the Reading of the Riot Act, s.68
 Piracy, s.74
 Hijacking, s.76
 Endangering the Safety of an Aircraft or Airport, s.77
 Seizing Control of a Ship or Fixed Platform, s.78.1
 Breach of Care Duty with Explosives Causing Death, s.80(a)
 Misuse of Explosives and Corrosives, s.81(1)(a) and (b)
 Perjury, s.132: *if in support of a death penalty offence*
 Criminal Negligence Causing Death, s.220
 Manslaughter, s.236



Maximum 14 Year Sentence Offences: Examples

- Treason, s.46(2) (b) and (e); *(Not during a state of war)*
- Alarming the Monarch, s.49
- Assisting an Enemy Alien/ Omitting to Prevent Treason, s.50
- Intimidating Parliament or a Legislature, s.51
- Inciting Mutiny, s.53
- Passport Forgery, s.57(1)
- Sedition, s.61
- Theft or Interference with a Canadian ship, s.75
- Taking an Offensive Weapon or Explosive on an Airplane, s.78
- Breach of Care Duty with Explosive Causing Bodily Harm or Property Damage, s.80(b)
- Misuse of Explosives, s.81(1)(c) and (d)
- Use of a Firearm During an Offence, s.85(1): *Minimum 1 or 3 years consecutive*
- Bribery of the Judiciary, s.119
- Bribery of Other Justice System Officers, s.120
- Perjury, s.132: *Not in relation to a death penalty offence*
- Giving Contradictory Evidence, s.136
- Fabricating Evidence, s.137
- Incest, s.155
- Living on the Avails of Prostitution of an Under 18, s.212(2)
- Counselling or Assisting Suicide, s.241

Maximum 10 Year Sentence Offences: Examples

- Sabotage, s.52
- Possession of a Weapon or Imitation for a Dangerous Purpose, s.87
- Possession of a Prohibited Weapon, s.90(1) [s]
- Importing Prohibited Weapons, s.95 [s]
- Possession of Firearms, Weapons or FAC while Prohibited, s.103(10)
- Obstruction of Justice, s.139(2)
- Prison Breach, s.144
- Sexual Interference, s.151 [s]
- Invitation to Sexual Touching, s.152 [s]
- Anal Intercourse, s.159 [s]; Bestiality, s.160 [s]
- Making or Distributing Child Pornography, s.163.1(2) and (3) [s]
- Procuring for the Purpose of Prostitution, s.212
- Criminal Negligence Causing Bodily Harm, s.221
- Dangerous Operation of Vehicles Causing Bodily Harm, s.249(3)
- Impaired Driving Causing Bodily Harm, s.255(2)
- Impeding Attempt to Save Life, s.262
- Assault Causing Bodily Harm, s.267 [s]
- Unlawfully Causing Bodily Harm, s.269 [s]
- Sexual Assault, s.271 [s]
- Unlawful Seizure or Confinement, s.279(2)

Maximum 5 Year Sentence Offences: Examples

- Possession of a Forged Passport, s.57(3)
- Interference with Military Discipline, s.62
- Unlawful Drilling (prohibited military skills practice), s.70
- Making or Having an Explosive, s.82
- Pointing a Firearm, s.86(1) [s]
- Careless Handling of a Firearm, s.86(2): *2 or 5 years maximum [s]*
- Carrying a Concealed Weapon, s.89 [s]
- Being in automobile with a known Prohibited Weapon, s.90(2) [s]
- Possession of an unregistered Restricted Weapon, s.91(1) [s]
- Unauthorized possession of a Restricted Weapon, s.91(2) [s]
- Being in automobile with a known Restricted Weapon, s.91(3) [s]
- Wrongful Transfer of Firearms, Weapons or Explosives, s.94 [s]
- Making an Automatic Firearm, s.95.1 [s]
- Wrongful Transfer of a Restricted Weapon, s.96(1) [s]
- Importing a Restricted Weapon, s.96(3) [s]
- Failing to Report a Lost or Found Weapon or Firearm, s.104(1) and (2) [s]
- Defacing or Possessing a Defaced Firearm, s.104(3) [s]
- Failing to Record Firearm and Weapon Transactions, s.105(8) [s]

Maximum 2 Year Sentence Offences: Examples

- Fraud, Use of Citizenship Certificate, S. 58
- Disobeying an Order of Court, S. 127
- Permit or Assist Escape, S. 146
- Corrupting Children, S. 172
- Keep common Bawdy House, S. 210(1)

Note: The great majority of 2 year sentences are associated with hybrid offences which have been dealt with indictably.