

# HEALTH AND SAFETY (OFFENCES) ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### ***Section 1: Health and safety offences: mode of trial and maximum penalty***

11. This section 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” where no other penalty is specified. (The meaning of the term “existing statutory provisions” is given in section 53(1) of the 1974 Act: essentially the term refers to certain health and safety related statutory provisions pre-dating the 1974 Act.) Annex 1 to these notes gives brief details of each offence listed in the new Schedule 3A, stating the current penalty and mode of trial applicable to it, and setting out the penalty and mode of trial provided for in the new Schedule 3A. The section also makes corresponding changes to the 1978 Order, details of which are given in Annex 2 to these notes.

#### ***Section 2: Consequential amendments and repeals***

12. *Subsection (1)* introduces Schedules 2 (consequential amendments) and 3 (repeals) to the Act. *Subsections (2) and (4)* confer power on the Secretary of State, or the appropriate Department in Northern Ireland, to make consequential amendments to existing regulations. This power reflects the fact that existing regulations made under section 15 of the 1974 Act and/or under section 2(2) of the European Communities Act 1972, apply section 33 of the 1974 Act with modifications. These modifications will need to be revised to reflect the amendments made by the Act to the 1974 Act. The purpose of including the power at subsections (2) and (4) is to enable the necessary changes to existing regulations to be made by statutory instrument subject to the negative resolution procedure.