

# **TAXATION (INTERNATIONAL AND OTHER PROVISIONS) ACT 2010**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 7: Miscellaneous relocations***

#### **Part 16: Relocation of section 144 of FA 2000**

##### **Overview**

1362. This Part inserts section 106A of TMA. It is based on section 144 of FA 2000, sections 281(7) and 282(2) and (3) of the Criminal Justice Act 2003 and section 45(1), (2), (6) and (7) of the Criminal Proceedings etc (Reform) (Scotland) Act 2007.
1363. Section 144 of FA 2000 is one of a number of similar sections that create an offence of fraudulent evasion in relation to taxes and duties for which HMRC has responsibility. Section 144 relates to the fraudulent evasion of income tax.
1364. The offence under section 144 is a so-called “either way” offence. That is, it can be tried on indictment in the Crown Court or summarily in the Magistrates Court.

##### **Section 106A of TMA: Offence of fraudulent evasion of income tax**

1365. The section defines the offence of fraudulent evasion of income tax and sets out the possible penalties for such an offence.
1366. *Subsection (3)* provides that the penalty under summary conviction may be different in England and Wales, Northern Ireland and Scotland. The maximum period of imprisonment in England and Wales is currently six months. This will, however, increase to 12 months when a commencement order in relation to section 282(3) of the Criminal Justice Act 2003 is passed. The maximum penalty in Northern Ireland is six months as in the source legislation as enacted. The Criminal Justice Act 2003 does not apply in Northern Ireland. The maximum penalty in Scotland is 12 months. It was originally six months in line with the source legislation as enacted. Section 45 of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 has, however, extended the maximum penalty for such offences to 12 months.