



Public Bodies Act 2011

2011 CHAPTER 24

PART 1

GENERAL ORDER-MAKING POWERS

Restrictions on powers of Ministers and Welsh Ministers

20 Restriction on creation of functions

- (1) An order under the preceding provisions of this Act may not create—
 - (a) a power to make subordinate legislation,
 - (b) a power of forcible entry, search or seizure, or
 - (c) a power to compel the giving of evidence.
- (2) Subsection (1) does not prevent an order from repealing and re-enacting a power.

21 Restriction on transfer and delegation of functions

- (1) An order under the preceding provisions of this Act may not transfer any function to—
 - (a) a charity, or
 - (b) a person not otherwise exercising public functions who is not a charity, unless the charity or person has consented.
- (2) An order under the preceding provisions of this Act may not transfer an excluded function to a person not otherwise exercising public functions.
- (3) In subsection (2) “excluded function” means—
 - (a) a function of a tribunal exercising the judicial power of the State,
 - (b) a power to make subordinate legislation,
 - (c) a power of forcible entry, search or seizure,
 - (d) a power to compel the giving of evidence, or

Status: This is the original version (as it was originally enacted).

- (e) any other function the exercise or non-exercise of which would necessarily interfere with, or otherwise affect, the liberty of an individual.

22 Restriction on creation of criminal offences

- (1) An order under the preceding provisions of this Act may not, in relation to any transfer or modification of functions, create a criminal offence that is punishable—
 - (a) on indictment, with imprisonment for a term exceeding two years, or
 - (b) on summary conviction, with—
 - (i) imprisonment for a term exceeding the normal maximum term, or
 - (ii) a fine exceeding level 5 on the standard scale.
- (2) In subsection (1)(b)(i) “the normal maximum term” means—
 - (a) in relation to England and Wales—
 - (i) in the case of a summary offence, 51 weeks, and
 - (ii) in the case of an offence triable either way, twelve months;
 - (b) in relation to Scotland—
 - (i) in the case of an offence triable only summarily, six months, and
 - (ii) in the case of an offence triable either summarily or on indictment, twelve months;
 - (c) in relation to Northern Ireland, six months.
- (3) In Scotland, in the case of an offence which, if committed by an adult, is triable either on indictment or summarily and is not an offence triable on indictment only by virtue of—
 - (a) Part 5 of the Criminal Justice Act 1988, or
 - (b) section 292(6) and (7) of the Criminal Procedure (Scotland) Act 1995,
 the reference in subsection (1)(b)(ii) to a fine exceeding level 5 on the standard scale is to be construed as a reference to the statutory maximum.
- (4) In England and Wales—
 - (a) in the case of a summary offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (2)(a)(i) to 51 weeks is to be read as a reference to six months, and
 - (b) in the case of an offence triable either way which is committed before the coming into force of section 154(1) of that Act, the reference in subsection (2)(a)(ii) to twelve months is to be read as a reference to six months.
- (5) Subsection (1) does not prevent an order from repealing and re-enacting a criminal offence.