
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that section 1(3) of the Sentencing (Pre-consolidation Amendments) Act 2020 (“the 2020 Act”) does not alter the effect of the transitional provisions in the Criminal Justice Act 2003 (Surcharge) (Amendment) Order 2020 ([S.I. 2020/310](#)) (“the 2020 Order”).

The 2020 Act is enacted to prepare legislation in anticipation of the Sentencing Act 2020 which will consolidate primary legislation relating to sentencing procedure and relevant secondary legislation and introduce the Sentencing Code. Section 1(3) will, with certain exceptions, modify the commencement, transitional or savings provisions in that legislation so that the most up to date sentencing provisions may be restated in a consolidated form in the Sentencing Act 2020 and apply to all offenders who are convicted of an offence after the commencement of that Act, regardless of when they committed their offence. Section 1(3) will come into force immediately before the Sentencing Act 2020 is commenced.

Some exceptions from the effect of section 1(3) are specified in Schedule 1 to the 2020 Act. Further exceptions may be specified by regulations under section 1(5)(b) of that Act.

The amount of surcharge that is payable by an offender under section 161A of the Criminal Justice Act 2003 is specified in the Schedule to the Criminal Justice Act 2003 (Surcharge) Order 2012 ([S.I. 2012/1696](#)) (“the 2012 Order”), made under sections 161A and 161B of that Act, which was amended by further orders made under those sections in 2014, 2016, 2019 and 2020. Paragraphs 3 to 6 of Schedule 1 to the 2020 Act ensure that section 1(3) of that Act does not alter the effect of the transitional provisions in the 2012 Order and those orders made in 2014, 2016 and 2019.

These Regulations ensure that section 1(3) of the 2020 Act does not alter the effect of article 3 of the 2020 Order and will come into force immediately before the Sentencing Act 2020. Article 3 of the 2020 Order provides that increases made by that Order to the amount of surcharge payable by an offender under the Schedule to the 2012 Order do not apply where a court deals with a person for an offence committed before the 2020 Order came into force: for such a person, the amount payable remains the amount that applied when the offence was committed. Regulation 2 provides that this will remain the case where a court deals with a person under the Sentencing Code for an offence committed before the 2020 Order came into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.