
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force on 2nd May 2022 provisions in the Criminal Justice Act 2003 (c. 44) (“the 2003 Act”) and the Sentencing Act 2020 (c. 17) (“the 2020 Act”).

Regulation 3(a) brings into force section 282 of the 2003 Act (increase in maximum term that may be imposed on summary conviction of offence triable either way). Section 282(1) amends section 32 of the Magistrates’ Courts Act 1980 (c. 43) (“the 1980 Act”) (penalties on summary conviction for offences triable either way) to increase the maximum penalty that a magistrates’ court can impose on summary conviction of an offence listed in Schedule 1 to the 1980 Act, from 6 months’ imprisonment to 12 months’. Section 282(2) and (3) together increase the maximum term of imprisonment to which a person is liable on summary conviction of an offence that is triable either way in the following circumstances: the offence is set out in legislation made before or during the same session as the 2003 Act, is punishable with imprisonment on summary conviction, and is not listed in Schedule 1 to the 1980 Act. Section 282(4) provides that only offences committed after the provision is commenced are affected. The maximum penalty is increased from 6 months’ imprisonment to 12 months’.

Regulation 3(b)(i) brings into force section 283(1)(b) and (3) of the 2003 Act (enabling powers: power to alter maximum penalties). Section 283(1)(b) confers a power on the Secretary of State to amend any enactment made before or in the same session as the 2003 Act, so as to make a person liable on summary conviction to a term of imprisonment as regards an offence triable either way. Section 283(3) provides that an order made under section 283(1)(b) may amend the enactment in question to increase the maximum penalty on summary conviction of an offence created under the power, to 12 months’ imprisonment.

Regulation 3(b)(ii) brings into force sections 283(4) and (7) insofar as they relate to paragraphs 6 and 7 of Schedule 27 to the 2003 Act (enabling powers: alteration of maximum penalties etc.). These provisions amend powers in the Environmental Protection Act 1990 (c. 43) and the Scotland Act 1998 (c. 46) to create offences to ensure they may provide for a maximum sentence of 12 months’ imprisonment on summary conviction of a triable either way offence.

Regulation 4 brings into force paragraph 24 of Schedule 22 to the 2020 Act (amendments of the Sentencing Code and related amendments of other legislation) for offences triable either way only. Paragraph 24 amends section 224 of the 2020 Act to increase the maximum penalty that a magistrates’ court can give on summary conviction of an offence triable either way from 6 months’ imprisonment to 12 months’.

Regulation 5 and the Schedule replace existing legislative references to the commencement of paragraph 24 of Schedule 22 to the 2020 Act and sections 154 and 282 of the Criminal Justice Act 2003 with the actual date of commencement (2nd May 2022). These replacements are made using the power in section 104(1)(a) of the Deregulation Act 2015 and spell out one of the effects of the amendments brought into force by regulations 3 and 4.

Regulation 6 amends section 224 of the 2020 Act to make clear on the face of that provision the effect of the amendment brought into force by regulation 4, namely the partial commencement of paragraph 24 of Schedule 22 to the 2020 Act. The amendments are made using the powers at section 419(1) and (2) of the 2020 Act. Regulation 6 comes into force one minute after the provisions commenced by regulation 4.

Regulation 7 inserts a new subsection into section 141 of the Environmental Protection Act 1990 to make transitional provision to ensure that where Regulations under the power conferred by that

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section make provision for a summary offence to be punishable with imprisonment for more than 6 months, those Regulations must also provide in relation to any offence committed before the day on which section 281(5) of the 2003 Act comes into force, any reference to a sentence of imprisonment of more than six months is to be read as six months.

Regulation 8 makes a comparable amendment to section 113 of the Scotland Act 1998.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Ministry of Justice, 102 Petty France, London, SW1H 9AJ and is published alongside the instrument on www.legislation.gov.uk