



# 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

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*Changes to legislation: There are currently no known outstanding effects for the Public Bodies Act 2011.  
Cross Heading: Restrictions on powers of Ministers and Welsh Ministers. (See end of Document for details)*

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- (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 [F12 May 2022], 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.

### Textual Amendments

- F1** Words in s. 22(4)(b) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), [Sch. Pt. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Public Bodies Act 2011, Cross Heading: Restrictions on powers of Ministers and Welsh Ministers.