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**Changes to legislation:** There are currently no known outstanding effects for the Small Business, Enterprise and Employment Act 2015, Paragraph 2. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 3

#### REGISTER OF PEOPLE WITH SIGNIFICANT CONTROL

##### PART 1

##### DUTY TO OBTAIN INFORMATION AND KEEP REGISTER

2 After Schedule 1 to that Act insert—

“SCHEDULE  
1A

Section 790C

#### REFERENCES TO PEOPLE WITH SIGNIFICANT CONTROL OVER A COMPANY

##### PART 1

##### THE SPECIFIED CONDITIONS

###### *Introduction*

- 1 This Part of this Schedule specifies the conditions at least one of which must be met by an individual (“X”) in relation to a company (“company Y”) in order for the individual to be a person with “significant control” over the company.

###### *Ownership of shares*

- 2 The first condition is that X holds, directly or indirectly, more than 25% of the shares in company Y.

###### *Ownership of voting rights*

- 3 The second condition is that X holds, directly or indirectly, more than 25% of the voting rights in company Y.

###### *Ownership of right to appoint or remove directors*

- 4 The third condition is that X holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of company Y.

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*Significant influence or control*

- 5 The fourth condition is that X has the right to exercise, or actually exercises, significant influence or control over company Y.

*Trusts, partnerships etc*

- 6 The fifth condition is that—
- (a) the trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person meet any of the other specified conditions (in their capacity as such) in relation to company Y, or would do so if they were individuals, and
  - (b) X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

**PART 2**

HOLDING AN INTEREST IN A COMPANY ETC

*Introduction*

- 7 This Part of this Schedule specifies the circumstances in which, for the purposes of section 790C(4) or (8)—
- (a) a person (“V”) is to be regarded as holding an interest in a company (“company W”);
  - (b) an interest held by V in company W is to be regarded as held through a legal entity.

*Holding an interest*

- 8 (1) V holds an interest in company W if—
- (a) V holds shares in company W, directly or indirectly,
  - (b) V holds, directly or indirectly, voting rights in company W,
  - (c) V holds, directly or indirectly, the right to appoint or remove any member of the board of directors of company W,
  - (d) V has the right to exercise, or actually exercises, significant influence or control over company W, or
  - (e) sub-paragraph (2) is satisfied.
- (2) This sub-paragraph is satisfied where—
- (a) the trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person hold an interest in company W in a way mentioned in sub-paragraph (1)(a) to (d), and
  - (b) V has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

*Interests held through a legal entity*

- 9 (1) This paragraph applies where V—

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- (a) holds an interest in company W by virtue of indirectly holding shares or a right, and
  - (b) does so by virtue of having a majority stake (see paragraph 18) in—
    - (i) a legal entity (“L”) which holds the shares or right directly, or
    - (ii) a legal entity that is part of a chain of legal entities such as is described in paragraph 18(1)(b) or (2)(b) that includes L.
- (2) Where this paragraph applies, V holds the interest in company W—
- (a) through L, and
  - (b) through each other legal entity in the chain mentioned in subparagraph (1)(b)(ii).

### PART 3

#### SUPPLEMENTARY PROVISION

##### *Introduction*

- 10 This Part sets out rules for the interpretation of this Schedule.

##### *Joint interests*

- 11 If two or more persons each hold a share or right jointly, each of them is treated for the purposes of this Schedule as holding that share or right.

##### *Joint arrangements*

- 12 (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated for the purposes of this Schedule as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares (or rights) that they will exercise all or substantially all the rights conferred by their respective shares (or rights) jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” has the meaning given by paragraph 21.

##### *Calculating shareholdings*

- 13 (1) In relation to a legal entity that has a share capital, a reference to holding “more than 25% of the shares” in that entity is to holding shares comprised in the issued share capital of that entity of a nominal value exceeding (in aggregate) 25% of that share capital.
- (2) In relation to a legal entity that does not have a share capital—
- (a) a reference to holding shares in that entity is to holding a right to share in the capital or, as the case may be, profits of that entity;

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- (b) a reference to holding “more than 25% of the shares” in that entity is to holding a right or rights to share in more than 25% of the capital or, as the case may be, profits of that entity.

*Voting rights*

- 14 (1) A reference to the voting rights in a legal entity is to the rights conferred on shareholders in respect of their shares (or, in the case of an entity not having a share capital, on members) to vote at general meetings of the entity on all or substantially all matters.
- (2) In relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights—
  - (a) a reference to exercising voting rights in the entity is to be read as a reference to exercising rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a company;
  - (b) a reference to exercising more than 25% of the voting rights in the entity is to be read as a reference to exercising the right under the constitution of the entity to block changes to the overall policy of the entity or to the terms of its constitution.
- 15 In applying this Schedule, the voting rights in a legal entity are to be reduced by any rights held by the entity itself.

*Rights to appoint or remove members of the board*

- 16 A reference to the right to appoint or remove a majority of the board of directors of a legal entity is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.
- 17 References to a board of directors, in the case of an entity that does not have such a board, are to be read as references to the equivalent management body of that entity.

*Shares or rights held “indirectly”*

- 18 (1) A person holds a share “indirectly” if the person has a majority stake in a legal entity and that entity—
  - (a) holds the share in question, or
  - (b) is part of a chain of legal entities—
    - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
    - (ii) the last of which holds the share.
- (2) A person holds a right “indirectly” if the person has a majority stake in a legal entity and that entity—
  - (a) holds that right, or
  - (b) is part of a chain of legal entities—
    - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
    - (ii) the last of which holds that right.

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- (3) For these purposes, A has a “majority stake” in B if—
- (a) A holds a majority of the voting rights in B,
  - (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
  - (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
  - (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a legal entity is to be treated as having the right to appoint a director if—
- (a) a person's appointment as director follows necessarily from that person's appointment as director of the legal entity, or
  - (b) the directorship is held by the legal entity itself.

*Shares held by nominees*

- 19 A share held by a person as nominee for another is to be treated for the purposes of this Schedule as held by the other (and not by the nominee).

*Rights treated as held by person who controls their exercise*

- 20 (1) Where a person controls a right, the right is to be treated for the purposes of this Schedule as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—
- (a) by that person,
  - (b) in accordance with that person's directions or instructions, or
  - (c) with that person's consent or concurrence.
- 21 (1) “Arrangement” includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- (2) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise).

*Rights exercisable only in certain circumstances etc*

- 22 (1) Rights that are exercisable only in certain circumstances are to be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights.

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- (2) But rights that are exercisable by an administrator or by creditors while a legal entity is in relevant insolvency proceedings are not to be taken into account even while the entity is in those proceedings.
- (3) “Relevant insolvency proceedings” means—
  - (a) administration within the meaning of the Insolvency Act 1986,
  - (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  - (c) proceedings under the insolvency law of another country or territory during which an entity's assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

*Rights attached to shares held by way of security*

- 23 Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—
  - (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person's instructions, and
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interests.

*Significant influence or control*

- 24 (1) The Secretary of State must issue guidance about the meaning of “significant influence or control” for the purposes of this Schedule.
- (2) Regard must be had to that guidance in interpreting references in this Schedule to “significant influence or control”.
- (3) Before issuing guidance under this paragraph the Secretary of State must lay a draft of it before Parliament.
- (4) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the Secretary of State must take no further steps in relation to it.
- (5) If no such resolution is made within that period, the Secretary of State must issue and publish the guidance in the form of the draft.
- (6) Sub-paragraph (4) does not prevent a new draft of proposed guidance from being laid before Parliament.
- (7) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).

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- (8) In calculating the 40-day period, no account is to be taken of any period during which—
- (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than 4 days.
- (9) The Secretary of State may revise guidance issued under this paragraph, and a reference in this paragraph to guidance includes a reference to revised guidance.

#### *Limited partnerships*

- 25 (1) An individual does not meet the specified condition in paragraph 2, 3 or 4 in relation to a company by virtue only of being a limited partner.
- (2) An individual does not meet the specified condition in paragraph 2, 3 or 4 in relation to a company by virtue only of, directly or indirectly—
- (a) holding shares, or
  - (b) holding a right,
- in or in relation to a limited partner which (in its capacity as such) would meet the condition if it were an individual.
- (3) Sub-paragraphs (1) and (2) do not apply for the purposes of determining whether the requirement set out in paragraph (a) of the specified condition in paragraph 6 is met.
- (4) In this paragraph “limited partner” means—
- (a) a limited partner in a limited partnership registered under the Limited Partnerships Act 1907 (other than one who takes part in the management of the partnership business), or
  - (b) a foreign limited partner.
- (5) In this paragraph “foreign limited partner” means an individual who—
- (a) participates in arrangements established under the law of a country or territory outside the United Kingdom, and
  - (b) has the characteristics prescribed by regulations made by the Secretary of State.
- (6) Regulations under this paragraph may, in particular, prescribe characteristics by reference to—
- (a) the nature of arrangements;
  - (b) the nature of an individual's participation in the arrangements.
- (7) Regulations under this paragraph are subject to affirmative resolution procedure.

## **PART 4**

### POWER TO AMEND THRESHOLDS ETC

- 26 (1) The Secretary of State may by regulations amend this Schedule for a permitted purpose.

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- (2) The permitted purposes are—
- (a) to replace any or all references in this Schedule to a percentage figure with references to some other (larger or smaller) percentage figure;
  - (b) to change or supplement the specified conditions in Part 1 of this Schedule so as to include circumstances (for example, circumstances involving more complex structures) that give individuals a level of control over company Y broadly similar to the level of control given by the other specified conditions;
  - (c) in consequence of any provision made by virtue of paragraph (b), to change or supplement Part 2 of this Schedule so that circumstances specified in that Part in which a person is to be regarded as holding an interest in a company correspond to any of the specified conditions, or would do so but for the extent of the interest.
- (3) Regulations under this paragraph are subject to affirmative resolution procedure.

## SCHEDULE 1B

Section 790I

### ENFORCEMENT OF DISCLOSURE REQUIREMENTS

#### *Right to issue restrictions notice*

- 1 (1) This paragraph applies if—
- (a) a notice under section 790D or 790E is served by a company on a person who has a relevant interest in the company, and
  - (b) the person fails to comply with that notice within the time specified in it.
- (2) The company may give the person a notice under this paragraph (a “warning notice”) informing the person that it is proposing to issue the person with a notice (a “restrictions notice”) with respect to the relevant interest.
- (3) The company may issue the restrictions notice if, by the end of the period of one month beginning with the date on which the warning notice was given—
- (a) the person has not complied with the notice served under section 790D or 790E, and
  - (b) the company has not been provided with a valid reason sufficient to justify the person's failure to comply with the notice served under that section.
- (4) A restrictions notice is issued on a person by sending the notice to the person.
- (5) The effect of a restrictions notice is set out in paragraph 3.
- (6) In deciding whether to issue a restrictions notice, the company must have regard to the effect of the notice on the rights of third parties in respect of the relevant interest.



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### *Relevant interests*

- 2 (1) For the purposes of this Schedule, a person has a relevant interest in a company if the person—
  - (a) holds any shares in the company,
  - (b) holds any voting rights in the company, or
  - (c) holds the right to appoint or remove any member of the board of directors of the company.
- (2) References to “the relevant interest” are to the shares or right in question.
- (3) Part 3 of Schedule 1A applies for the interpretation of sub-paragraph (1) save that, where the relevant interest is by virtue of paragraph 19 or 20 of that Schedule treated for the purposes of that Schedule as held by a person other than the person who in fact holds the interest, both the holder and the other person are to be regarded for the purposes of this Schedule as having the relevant interest.

### *Effect of restrictions notice*

- 3 (1) The effect of a restrictions notice issued under paragraph 1 with respect to a relevant interest is as follows—
  - (a) any transfer of the interest is void,
  - (b) no rights are exercisable in respect of the interest,
  - (c) no shares may be issued in right of the interest or in pursuance of an offer made to the interest-holder,
  - (d) except in a liquidation, no payment may be made of sums due from the company in respect of the interest, whether in respect of capital or otherwise.
- (2) An agreement to transfer an interest that is subject to the restriction in sub-paragraph (1)(a) is void.
- (3) Sub-paragraph (2) does not apply to an agreement to transfer the interest on the making of an order under paragraph 8 made by virtue of sub-paragraph (3)(b) of that paragraph (removal of restrictions in case of court-approved transfer).
- (4) An agreement to transfer any associated right (otherwise than in a liquidation) is void.
- (5) Sub-paragraph (4) does not apply to an agreement to transfer any such right on the making of an order under paragraph 8 made by virtue of sub-paragraph (3)(b) of that paragraph (removal of restrictions in case of court-approved transfer).
- (6) An “associated right”, in relation to a relevant interest, is—
  - (a) a right to be issued with any shares issued in right of the relevant interest, or
  - (b) a right to receive payment of any sums due from the company in respect of the relevant interest.

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- (7) The provisions of this section are subject to any directions given under paragraph 4.

*Protection of third party rights*

- 4 (1) The court may give a direction under this paragraph if, on application by any person aggrieved, the court is satisfied that a restrictions notice issued by the company under paragraph 1 unfairly affects the rights of third parties in respect of the relevant interest.
- (2) The direction is given for the purpose of protecting those third party rights.
- (3) The direction is a direction that certain acts will not constitute a breach of the restrictions placed on the relevant interest by the restrictions notice.
- (4) An order containing a direction under this paragraph—
- (a) must specify the acts that will not constitute a breach of the restrictions, and
  - (b) may confine the direction to cases where those acts are done by persons, or for purposes, described in the order.
- (5) The direction may be given subject to such terms as the court thinks fit.

*Breach of restrictions*

- 5 (1) A person commits an offence if the person does anything listed in subparagraph (2) knowing that the interest is subject to restrictions.
- (2) The things are—
- (a) exercising or purporting to exercise any right to dispose of a relevant interest,
  - (b) exercising or purporting to exercise any right to dispose of any right to be issued with a relevant interest, or
  - (c) voting in respect of a relevant interest (whether as holder of the interest or as proxy) or appointing a proxy to vote in respect of a relevant interest.
- (3) A person who has a relevant interest that the person knows to be subject to restrictions commits an offence if the person—
- (a) knows a person to be entitled (apart from the restrictions) to vote in respect of the interest, whether as holder or as proxy,
  - (b) does not know the person to be aware of the fact that the interest is subject to restrictions, and
  - (c) fails to notify the person of that fact.
- (4) A person commits an offence if the person—
- (a) either has a relevant interest that the person knows to be subject to restrictions or is entitled to an associated right, and
  - (b) enters in that capacity into an agreement that is void by virtue of paragraph 3(2) or (4).

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- (5) References in this Schedule to an interest being “subject to restrictions” are to an interest being subject to restrictions by virtue of a restrictions notice under paragraph 1.
- 6 If shares in a company are issued in contravention of a restriction imposed by virtue of a restrictions notice under paragraph 1, an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- 7 (1) A person guilty of an offence under paragraph 5 or 6 is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction—
    - (i) in England and Wales, to a fine,
    - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (2) The provisions of those paragraphs are subject to any direction given under paragraph 4 or 8.

#### *Relaxation of restrictions*

- 8 (1) An application may be made to the court for an order directing that the relevant interest cease to be subject to restrictions.
- (2) An application for an order under this paragraph may be made by the company in question or by any person aggrieved.
- (3) The court must not make an order under this paragraph unless—
- (a) it is satisfied that the information required by the notice served under section 790D or 790E has been disclosed to the company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure, or
  - (b) the relevant interest is to be transferred for valuable consideration and the court approves the transfer.
- (4) An order under this paragraph made by virtue of sub-paragraph (3)(b) may continue, in whole or in part, the restrictions mentioned in paragraph 3(1)(c) and (d) so far as they relate to a right acquired or offer made before the transfer.
- (5) Where any restrictions continue in force under sub-paragraph (4)—
- (a) an application may be made under this paragraph for an order directing that the relevant interest cease to be subject to those restrictions, and
  - (b) sub-paragraph (3) does not apply in relation to the making of such an order.

#### *Orders for sale*

- 9 (1) The court may order that the relevant interest subject to restrictions be sold subject to the court's approval as to the sale.

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- (2) An application for an order under sub-paragraph (1) may only be made by the company in question.
  - (3) If the court makes an order under this paragraph, it may make such further order relating to the sale or transfer of the interest as it thinks fit.
  - (4) An application for an order under sub-paragraph (3) may be made—
    - (a) by the company in question,
    - (b) by the person appointed by or in pursuance of the order to effect the sale, or
    - (c) by any person with an interest in the relevant interest.
  - (5) On making an order under sub-paragraph (1) or (3), the court may order that the applicant's costs (in Scotland, expenses) be paid out of the proceeds of sale.
- 10 (1) If a relevant interest is sold in pursuance of an order under paragraph 9, the proceeds of the sale, less the costs of the sale, must be paid into court for the benefit of those who are beneficially interested in the relevant interest.
- (2) A person who is beneficially interested in the relevant interest may apply to the court for the whole or part of those proceeds to be paid to that person.
  - (3) On such an application, the court must order the payment to the applicant of—
    - (a) the whole of the proceeds of sale together with any interest on the proceeds, or
    - (b) if another person was also beneficially interested in the relevant interest at the time of the sale, such proportion of the proceeds (and any interest) as the value of the applicant's interest bears to the total value of the relevant interest.
  - (4) If the court has ordered under paragraph 9 that the costs (in Scotland, expenses) of an applicant under that paragraph are to be paid out of the proceeds of sale, the applicant is entitled to payment of those costs (or expenses) out of the proceeds before any person receives any part of the proceeds under this paragraph.

*Company's power to withdraw restrictions notice*

- 11 A company that issues a person with a restrictions notice under paragraph 1 must by notice withdraw the restrictions notice if—
- (a) it is satisfied that there is a valid reason sufficient to justify the person's failure to comply with the notice served under section 790D or 790E,
  - (b) the notice served under section 790D or 790E is complied with, or
  - (c) it discovers that the rights of a third party in respect of the relevant interest are being unfairly affected by the restrictions notice.

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*Supplementary provision*

- 12 (1) The Secretary of State may by regulations make provision about the procedure to be followed by companies in issuing and withdrawing restrictions notices.
- (2) The regulations may in particular make provision about—
- (a) the form and content of warning notices and restrictions notices, and the manner in which they must be given,
  - (b) the factors to be taken into account in deciding what counts as a “valid reason” sufficient to justify a person's failure to comply with a notice under section 790D or 790E, and
  - (c) the effect of withdrawing a restrictions notice on matters that are pending with respect to the relevant interest when the notice is withdrawn.
- (3) Regulations under this paragraph are subject to negative resolution procedure.

*Offences for failing to comply with notices*

- 13 (1) A person to whom a notice under section 790D or 790E is addressed commits an offence if the person—
- (a) fails to comply with the notice, or
  - (b) in purported compliance with the notice—
    - (i) makes a statement that the person knows to be false in a material particular, or
    - (ii) recklessly makes a statement that is false in a material particular.
- (2) Where the person is a legal entity, an offence is also committed by every officer of the entity who is in default.
- (3) A person does not commit an offence under sub-paragraph (1)(a) (or sub-paragraph (2) as it applies in relation to that sub-paragraph) if the person proves that the requirement to give information was frivolous or vexatious.
- (4) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).

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*Offences for failing to provide information*

- 14 (1) A person commits an offence if the person—
- (a) fails to comply with a duty under section 790G or 790H, or
  - (b) in purported compliance with such a duty—
    - (i) makes a statement that the person knows to be false in a material particular, or
    - (ii) recklessly makes a statement that is false in a material particular.
- (2) Where the person is a legal entity, an offence is also committed by every officer of the entity who is in default.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).”

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**Commencement Information**

- 11** Sch. 3 para. 2 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(a)
- 12** Sch. 3 para. 2 in force at 6.4.2016 in so far as not already in force by S.I. 2015/2029, reg. 4(a)

**Changes to legislation:**

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