



Judicial Review and Courts Act 2022

2022 CHAPTER 35

PART 2

COURTS, TRIBUNALS AND CORONERS

CHAPTER 1

CRIMINAL PROCEDURE

Sentencing powers of magistrates' courts

13 Maximum term of imprisonment on summary conviction for either-way offence

- (1) In section 224 of the Sentencing Code (general limit on magistrates' court's power to impose custodial sentence)—
- (a) in subsection (1), for the words after paragraph (b) substitute “for a term exceeding the applicable limit in respect of any one offence”;
 - (b) after subsection (1) insert—

“(1A) The applicable limit is—

 - (a) 6 months in the case of a summary offence, or
 - (b) 12 months in the case of an offence triable either way.”;
 - (c) in subsection (2), for the words from “more than” to the end substitute “a term exceeding the applicable limit”.
- (2) In Part 8 of Schedule 23 to the Sentencing Act 2020 (powers to amend the Sentencing Code in relation to custodial sentences), before paragraph 15 insert—

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“General limit on magistrates’ court’s power to impose custodial sentence

- 14A (1) The Secretary of State may by regulations amend section 224(1A)(b) (general limit on custodial sentence for either-way offence in magistrates’ court)—
- (a) if for the time being it refers to 12 months, to substitute a reference to 6 months for the reference to 12 months, or
 - (b) if for the time being it refers to 6 months, to substitute a reference to 12 months for the reference to 6 months.
- (2) An amendment under sub-paragraph (1) has effect only in relation to an offence for which a person is convicted on or after the day on which the amendment comes into force.
- (3) Regulations under sub-paragraph (1) are subject to the negative resolution procedure.””
- (3) In Schedule 1 to the Interpretation Act 1978, after the entry requiring the definitions relating to offences to be construed without regard to section 22 of the Magistrates’ Courts Act 1980 insert—
- “In relation to a term of imprisonment in respect of an offence triable either way under the law of England and Wales, “general limit in a magistrates’ court” means the limit laid down in respect of the offence by section 224(1) of the Sentencing Code (as it has effect from time to time).”
- (4) In section 32(1) of the Magistrates’ Courts Act 1980 (maximum penalty on summary conviction for certain either-way offences), for “12 months” substitute “the general limit in a magistrates’ court”.
- (5) In section 282(3) of the Criminal Justice Act 2003 (maximum custodial term on summary conviction for certain either-way offences)—
- (a) omit “maximum”;
 - (b) for “12 months” substitute “a term not exceeding the general limit in a magistrates’ court”.
- (6) Subsection (7) applies to relevant legislation—
- (a) which provides for a maximum term of imprisonment of 12 months on summary conviction for an offence triable either way, and
 - (b) in relation to which section 282(3) of the Criminal Justice Act 2003 does not apply.
- (7) Relevant legislation to which this subsection applies is to be read as providing for a term of imprisonment not exceeding the general limit in a magistrates’ court (in place of the term referred to in subsection (6)(a)).
- (8) Subsection (9) applies to relevant primary legislation that confers a power (in whatever terms) to make subordinate legislation providing for a maximum term of imprisonment, on summary conviction for an offence triable either way, of—
- (a) 6 months, in the case of an enactment contained in an Act passed on or before 20 November 2003, or
 - (b) 12 months, the case of any other relevant primary legislation.

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(9) Relevant primary legislation to which this subsection applies is to be read as conferring a power to provide for a term of imprisonment not exceeding the general limit in a magistrates' court (in place of the term referred to in subsection (8)(a) or (b)).

(10) The Secretary of State may by regulations—

- (a) amend relevant legislation in relation to which section 282(3) of the Criminal Justice Act 2003 applies, to spell out the effect of that provision (as amended by subsection (5));
- (b) amend relevant legislation to which subsection (7) applies, to spell out the effect of that subsection;
- (c) amend relevant primary legislation to which subsection (9) applies, to spell out the effect of that subsection;
- (d) amend relevant legislation in consequence of an amendment under any of the preceding paragraphs.

(11) In this section—

“relevant legislation” means an enactment contained in—

- (a) an Act passed before or in the same Session as this Act,
- (b) an Act or Measure of Senedd Cymru enacted before the passing of this Act,
- (c) subordinate legislation made before the passing of this Act, or
- (d) retained direct EU legislation, not falling within the preceding paragraphs, made before the passing of this Act;

“relevant primary legislation” means an enactment falling within paragraph (a) or (b) of the definition of “relevant legislation”;

“subordinate legislation” means subordinate legislation within the meaning of the Interpretation Act 1978 (see section 21(1) of that Act) or any equivalent instrument made or to be made under an Act or Measure of Senedd Cymru.

Commencement Information

I1 S. 13(3) in force at Royal Assent, see [s. 51\(1\)\(b\)](#)

I2 [S. 13\(1\)\(2\)\(4\)-\(11\)](#) in force at 14.7.2022 by [S.I. 2022/816](#), [reg. 3\(c\)](#)

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