

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 3 – Penalties

Sentencing powers

Section 45: Other statutory offences

256. This section brings the maximum summary prison sentences for certain statutory offences into line with the new maximum sentence for common law offences set out in section 43 of the Act.
257. Subsection (1), read with subsections (6), (7) and (8) set out the new maximum, and define the penalty provisions that will be altered. Offences which will be affected are those which can be tried under either solemn or summary procedure (sometimes referred to as “triable either way”) and attract maximum prison sentences of less than 12 months on summary conviction. The new maximum summary penalty for such offences will be 12 months.
258. The effect of subsection (2) is that the statutes which create the affected offences are to be read subject to the amended summary sentencing limit.
259. Subsection (3) allows the Scottish Ministers to amend the maximum period of imprisonment specified in the statutory offences to which subsections (1) and (2) apply. This means that, in due course, textual amendment of the relevant statutes can take place, avoiding ongoing reliance on the general amendment. Subsection (4) provides that the maximum period of imprisonment provided for in a relevant power is to be read as a period of 12 months. Subsection (5) allows the Scottish Ministers to amend certain provisions in enactments that contain powers to create offences. Where an enactment provides for the creation of offences punishable on both solemn and summary conviction, the maximum summary penalty may, by order, be increased to 12 months.