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Report Stage: Wednesday 19 January 2022

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## Judicial Review and Courts Bill, As Amended (Amendment Paper)

This document lists all amendments tabled to the Judicial Review and Courts Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendments: 6 to 19 and NC1

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Secretary Dominic Raab

NC1

★ To move the following Clause—

**“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—

*“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 by section 224(1A)(b) 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, in the case of any other relevant primary legislation.

- (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.”

**Member’s explanatory statement**

This new clause enables the maximum custodial term that a magistrates’ court may impose for an either-way offence to be reduced to 6 months, and subsequently restored to 12 months, by regulations.

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Wera Hobhouse

Ed Davey

Daisy Cooper

Wendy Chamberlain

Layla Moran

Jamie Stone

Sarah Olney

Christine Jardine

Helen Morgan

Tim Farron

Sarah Green

Munira Wilson

Mr Alistair Carmichael

1

Clause 1, page 1, line 8, leave out from “order” to end of line 9

**Member’s explanatory statement**

This amendment would remove the provision for making quashing orders prospective-only.

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Wera Hobhouse 2  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan

Tim Farron  
Sarah Green

Munira Wilson  
Mr Alistair Carmichael

Clause 1, page 1, leave out lines 15 to 18

**Member's explanatory statement**

This amendment is consequential on Amendment 1, which removes the provision for making quashing orders prospective-only.

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Wera Hobhouse 3  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan

Tim Farron  
Sarah Green

Munira Wilson  
Mr Alistair Carmichael

Clause 1, page 2, line 2, leave out "or (4)"

**Member's explanatory statement**

This amendment is consequential on Amendment 1, which removes the provision for making quashing orders prospective-only.

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Wera Hobhouse 4  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan

Tim Farron  
Sarah Green

Munira Wilson  
Mr Alistair Carmichael

Clause 1, page 2, leave out lines 24 to 32

**Member's explanatory statement**

This amendment would protect the discretion of the court by removing the presumption in favour of issuing suspended, prospective-only quashing orders.

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Wera Hobhouse 5  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan

Tim Farron  
Sarah Green

Munira Wilson  
Mr Alistair Carmichael

Page 3, line 14, leave out Clause 2

**Member’s explanatory statement**

This amendment would preserve the ability of claimants to seek judicial review of a decision by the Upper Tribunal to refuse permission to appeal a decision of the First-tier Tribunal (also known as “Cart judicial review”).

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Secretary Dominic Raab 6

- ★ Clause 2, page 3, line 36, after “in” insert “such a procedurally defective way as amounts to a”

**Member’s explanatory statement**

This amendment clarifies that the ability preserved by clause 2 to challenge the Upper Tribunal’s permission-to-appeal decisions for breach of natural justice relates only to procedural defects.

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Secretary Dominic Raab 7

- ★ Clause 46, page 55, line 27, at end insert—
- “(za) section (*Maximum term of imprisonment on summary conviction for either-way offence*)(6) to (11);”

**Member’s explanatory statement**

This amendment provides for the free-standing provision in NC1 to extend only to England and Wales.

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Secretary Dominic Raab

8

★ Clause 47, page 56, line 2, leave out subsection (1) and insert—

“(1) The following provisions of this Act come into force on the day on which this Act is passed—

- (a) section (*Maximum term of imprisonment on summary conviction for either-way offence*);
- (b) paragraphs 16 to 20 of Schedule 2, and section 17 so far as relating to those paragraphs (but see, in relation to the amendments made by paragraphs 19 and 20 of that Schedule, section 336 of the Criminal Justice Act 2003 and section 417 of the Sentencing Act 2020 respectively);
- (c) this Part.”

**Member’s explanatory statement**

This amendment provides for NC1 to come into force on Royal Assent.

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Secretary Dominic Raab

9

★ Schedule 2, page 72, line 18, at end insert—

*“Amendments in connection with section (Maximum term of imprisonment on summary conviction for either-way offence)*

- 16 In section 133 of the Magistrates’ Courts Act 1980 (consecutive terms of imprisonment)—
- (a) in subsection (1), for “6 months” substitute “the longest term that could be imposed in respect of any one of the offences for which a term of imprisonment is being imposed”;
  - (b) in subsection (2), for “6 months” substitute “the longest term otherwise permitted by subsection (1) (if less than 12 months)”.
- 17 In section 141(5A) of the Environmental Protection Act 1990 (maximum terms for offences under regulations about waste imports and exports), in paragraph (b), for “twelve months” substitute “the general limit in a magistrates’ court”.
- 18 In section 113(10A) of the Scotland Act 1998 (maximum terms for offences under subordinate legislation under that Act), in paragraph (b), for “twelve months” substitute “the general limit in a magistrates’ court”.
- 19 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 155(2) (amendment of section 133(1) of the Magistrates’ Courts Act 1980), for ““6 months”” substitute “the words from “the longest” to “being imposed””.

- (3) In section 283 (power to amend powers to make offences punishable with imprisonment)—
- (a) in subsection (1)—
    - (i) omit “or (3)”;
    - (ii) omit paragraph (b);
  - (b) omit subsection (3).
- 20 In Part 5 of Schedule 22 to the Sentencing Act 2020 (prospective amendments of the Sentencing Code in relation to custodial sentences)—
- (a) omit paragraph 24;
  - (b) before paragraph 25 insert—

“24A In section 224(1A)(a) (general limit on custodial sentence for summary offence in magistrates’ court), for “6 months” substitute “12 months”.”

**Member’s explanatory statement**

This amendment inserts technical amendments in connection with NC1.

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Secretary Dominic Raab

10

- ★ Schedule 5, page 83, line 5, at beginning insert “Reconsideration or”

**Member’s explanatory statement**

This amendment is consequential on Amendment 11.

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Secretary Dominic Raab

11

- ★ Schedule 5, page 83, line 6, after “to” insert “reconsider or”

**Member’s explanatory statement**

This amendment allows the terminology of “reconsideration” to be used as an alternative to “review” in employment tribunal procedure.

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Secretary Dominic Raab

12

- ★ Schedule 5, page 85, line 33, at end insert—

“(1A)For the heading substitute “Preliminary hearings”.”

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

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Secretary Dominic Raab

13

- ★ Schedule 5, page 85, line 36, leave out “pre-hearing review” and insert “preliminary hearing”

**Member’s explanatory statement**

This amendment and Amendment 17 rename “pre-hearing reviews” as “preliminary hearings” in employment tribunal procedure.

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Secretary Dominic Raab

14

- ★ Schedule 5, page 86, line 2, leave out “pre-hearing review” and insert “hearing”

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

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Secretary Dominic Raab

15

- ★ Schedule 5, page 86, line 6, at end insert—

“(ai) for “pre-hearing review” substitute “preliminary hearing”;

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

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Secretary Dominic Raab

16

- ★ Schedule 5, page 86, line 14, leave out sub-paragraph (5) and insert—

“(5) For subsection (2A) substitute—

“(2A) Procedure Rules may not enable a power of striking out to be exercised in a preliminary hearing on a ground which does not apply outside a preliminary hearing.”

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

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Secretary Dominic Raab

17

- ★ Schedule 5, page 86, line 22, leave out ““pre-hearing review” means a review of” and insert ““preliminary hearing” means a hearing in”

**Member’s explanatory statement**

See the explanatory statement for Amendment 13.

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Secretary Dominic Raab

18

- ★ Schedule 5, page 87, line 10, at end insert—

“9A In section 12A(9) (subsequent award of compensation not to necessitate review of financial penalties), in the words before paragraph (a), after “be” insert “reconsidered or”.”

**Member’s explanatory statement**

This amendment is consequential on Amendment 11.

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Secretary Dominic Raab

19

- ★ Schedule 5, page 88, line 20, at end insert—

“(b) in subsection (3), in paragraphs (a) and (b), after “being” insert “reconsidered or”.”

**Member’s explanatory statement**

This amendment is consequential on Amendment 11.

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## Order of the House

**[26 October 2021]**

That the following provisions shall apply to the Judicial Review and Courts Bill:

**Committal**

1. The Bill shall be committed to a Public Bill Committee.

**Proceedings in Public Bill Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 23 November 2021.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

**Proceedings on Consideration and Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

**Other proceedings**

7. Any other proceedings on the Bill may be programmed.
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