

2004 No.829 (C.35)

CRIMINAL LAW, ENGLAND AND WALES

**The Criminal Justice Act 2003 (Commencement No.3 and
Transitional Provisions) Order 2004**

Made - - - -

16th March 2004

The Secretary of State, in exercise of the powers conferred upon him by sections 330(4)(b) and 336(3) of the Criminal Justice Act 2003 Act (a), hereby makes the following Order:

1.—(1) This Order may be cited as the Criminal Justice Act 2003 (Commencement No.3 and Transitional Provisions) Order 2004.

(2) In this Order “the 2003 Act” means the Criminal Justice Act 2003.

2.—(1) Subject to paragraphs (3) to (6), the provisions of the 2003 Act listed in paragraph (2) shall come into force on 5th April 2004.

(2) The provisions referred to in paragraph (1) are—

- (a) sections 9 (taking fingerprints without consent) and 10 (taking non-intimate samples without consent);
- (b) sections 13, 15(3), 16, 17 and 19 to 21 (bail);
- (c) section 40 (code of practice for police interviews of witnesses notified by accused);
- (d) sections 139 to 141 (use of documents to refresh memory);
- (e) section 174(4) (duty to give reasons for, and explain effect of, sentence);
- (f) section 176 (interpretation of Chapter 1);
- (g) section 321 and Schedule 33 (jury service);
- (h) sections 325 to 327 (arrangements for assessing etc. risks posed by sexual or violent offenders);
- (i) section 331 (further minor and consequential amendments) in so far as it relates to the provisions referred to in sub-paragraph (k);
- (j) section 332 (repeals) in so far as it relates to the provisions referred to in sub-paragraph (l);
- (k) in Part 1 of Schedule 36 (further minor and consequential amendments), paragraphs 1 and 5;
- (l) in Schedule 37 (repeals)—
 - (i) in Part 1, the entry relating to section 63(3)(a) of the Police and Criminal Evidence Act 1984(b);

- (ii) Part 2, except the references to section 26 of and paragraph 34 of Schedule 10 to the Criminal Justice and Public Order Act 1994(a);
- (iii) in Part 7, the entry relating to section 91(2) of the Powers of Criminal Courts (Sentencing) Act 2000(b);
- (iv) Part 10; and
- (v) in Part 12, the entry relating to the Criminal Justice and Court Services Act 2000(c).

(3) Until the coming into force of sections 14 and 15(1) and (2) of the 2003 Act, section 20 of that Act shall have effect as if—

- (a) in subsection (1)—
 - (i) for the words “one or more of paragraphs 2A, 6 and” there were substituted the word “paragraph”; and
 - (ii) paragraphs (a) and (b) of sub-paragraph (2) as inserted into Part 1 of Schedule 1 to the Bail Act 1976(d) by section 20(1) were omitted; and
- (b) in subsection (2), for the words from “2(1)” to the end there were substituted “2(1) or 2A, or in deciding whether it is satisfied as mentioned in paragraph 6A”.

(4) In relation to a summons issued under section 2 of the Juries Act 1974(e) before the 5th April 2004, any question as to the eligibility for, disqualification or excusal from, or deferral of jury service of the person summoned is to be determined by reference to the provisions of section 1 of and Schedule 1 to that Act as in force before that date.

(5) Functions performed under section 67 of the Criminal Justice and Courts Services Act 2000 during the period referred to in section 326(5) of the 2003 Act are to be treated as having been performed under sections 325 and 326 of that Act for the purposes of a report prepared after the commencement of those provisions.

(6) Until the coming into force of Part 2 of the Sexual Offences Act 2003(f) the reference to that provision in section 327(2) of the 2003 Act is to be treated as a reference to Part I of the Sex Offenders Act 1997.

3.—(1) The provisions of the 2003 Act listed in paragraph (2) shall come into force on 1st May 2004.

(2) The provisions referred to in paragraph (1) are—

- (a) section 299 and Schedule 30 (disqualification from working with children); and
- (b) sections 322 and 323 (individual support orders).

4.—(1) Section 262 of and Schedule 20 to the 2003 Act (prisoners liable to removal from the United Kingdom: modifications of Criminal Justice Act 1991(g)) shall come into force on 14th June 2004.

Home Office
16th March 2004

Scotland of Asthal
Minister of State

(a) 1994 c.33.
 (b) 2000 c.6.
 (c) 2000 c.43.
 (d) 1976 c.63.
 (e) 1974 c.23.
 (f) 2003 c.42.
 (g) 1991 c.53.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions of the Criminal Justice Act 2003 (c.44) (“the 2003 Act”) which are listed in articles 2,3 and 4 on 5th April, 1st May and 14th June 2004 respectively. Article 2 also contains transitional provisions. Article 2(3) is needed to ensure that the amendments made by section 20 of the 2003 Act can operate correctly pending the coming into force of sections 14 and 15(1) and (2) of that Act. Article 2(4) ensures that a jury summons issued before the commencement of the provisions dealing with jury service in Schedule 33 to the 2003 Act is dealt with under the rules applicable at the time of issue. Article 2(5) and (6) relates to the commencement of sections 325-327 of the 2003 Act (arrangements for assessing etc. risks posed by sexual or violent offenders). These provisions ensure that an annual report prepared under the new provisions may include matters carried over from the existing arrangements, and take account of the commencement date of Part 2 of the Sex Offences Act 2003.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1,2,4,6 to 8, 11 and 12 and Schedule 1 (amendments of Police and Criminal Evidence Act 1984)	20.1.2004	2004/81
Section 3 (arrestable offences)	29.1.2004	2004/81
Section 25 (conditional cautions, code of practice)	29.1.2004	2004/81
Section 28 and Schedule 2 (partially) and section 31 (charging etc)	29.1.2004	2004/81
Section 42 (mode of trial for certain firearms offences: transitory arrangements)	22.1.2004	2004/81
Section 49 (rules of court)	29.1.2004	2004/81
Section 55 (rules of court)	29.1.2004	2004/81
Section 73 (rules of court)	29.1.2004	2004/81
Section 93 (rules of court)	29.1.2004	2004/81
Section 111 (rules of court)	29.1.2004	2004/81
Section 132 (rules of court)	29.1.2004	2004/81
Section 167, 168 (partially) and 169 to 173 (sentencing and allocation guidelines)	27.2.2004	2994/81
Sections 182 to 187 and Schedule 10 (prison sentences of less than 12 months) (partially)	26.2.2004	2003/3282
Sections 195 to 205, 213 to 219 and Schedule 14, and sections 221 to 223 (further provisions about orders under Chapters 2 and 3) (partially)	26.2.2004	2003/3282
Sections 237, 239 and Schedule 19, 241, 244 to 246, 248 to 257, 259, 263 to 265, and 268 (release on licence) (partially)	26.2.2004	2003/3282

Section 284 and Schedule 28 (increase in penalties for drug-related offences)	29.1.2004	2004/81
Section 285 (increase in penalties for certain driving-related offences)	27.2.2004	2004/81
Section 286 (increase in penalties for offences under section 174 of Road Traffic Act 1988)	29.1.2004	2004/81
Sections 287 to 293 (firearms offences) and Schedule 29 (sentencing for firearms offences in Northern Ireland)	22.1.2004	2004/81
Sections 294 to 297 (offenders transferred to mental hospital)	20.1.2004	2004/81
Section 302 (execution of process between England and Wales and Scotland) (partially)	26.2.2004	2003/3282
Section 304 and Schedule 32 (amendments relating to sentencing) (partially)	26.2.2004 22.1.2004	2003/3282 2004/81
Section 305 (interpretation of Part 12) (partially)	26.2.2004	2003/3282
Section 306 (detention of suspected terrorists)	20.1.2004	2004/81
Section 320 (outraging public decency)	20.1.2004	2004/81
Section 324 and Schedule 34 (parenting orders and referral orders)	27.2.2004	2004/81
Section 328 and Schedule 35 (criminal record certificates: amendments of Part 5 of Police Act 1997) (partially)	29.1.2004	2004/81
Section 329 (civil proceedings brought by offenders)	20.1.2004	2004/81
Section 332 and Schedule 37 (repeals) (partially)	20.1.2004, 29.1.2004, 27.2.2004	2004/81
Section 333 and Schedule 38 (supplementary and consequential provision) (partially)	27.2.2004	2004/81

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