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STATUTORY INSTRUMENTS

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**2005 No. 1817 (C.76)**

**CRIMINAL LAW, SCOTLAND  
CRIMINAL LAW, NORTHERN IRELAND**

**The Criminal Justice Act 2003 (Commencement  
No. 10 and Saving Provisions) Order 2005**

*Made* - - - - *5th July 2005*

The Secretary of State, in exercise of the powers conferred upon him by sections 330(4)(b), 336(3) and (4) of the Criminal Justice Act 2003<sup>(1)</sup>, hereby makes the following Order:

**1.—(1)** This Order may be cited as the Criminal Justice Act 2003 (Commencement No. 10 and Saving Provisions) Order 2005.

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

**2.—(1)** Subject to paragraph (3), the provisions of the 2003 Act specified in paragraph (2) shall come into force in relation to Northern Ireland<sup>(2)</sup> on 15th July 2005.

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

- (a)** section 32 (initial duty of disclosure by prosecutor);
- (b)** section 33(2) (defence disclosure);
- (c)** section 36 (further provisions about defence disclosure);
- (d)** section 37 (continuing duty of disclosure by prosecutor);
- (e)** section 38 (application by defence for disclosure);
- (f)** section 39 (faults in defence disclosure), except in so far as it inserts new section 11(4), (7) and (11) of the Criminal Procedure and Investigations Act 1996<sup>(3)</sup>;
- (g)** section 331 (further minor and consequential amendments) to the extent necessary to bring into force the provisions of Schedule 36 (further minor and consequential amendments) specified in sub-paragraph (i);
- (h)** section 332 (repeals) to the extent necessary to bring into force the provisions of Schedule 37 (repeals) specified in sub-paragraph (j);

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**(1)** 2003 c. 44; section 333(3) is relevant to the scope of the powers in section 330(4)(b).

**(2)** The provisions specified in article 2(2) of this Order in so far as they relate to England and Wales were commenced on 4th April 2005 by S.I. 2005/950 (C. 42).

**(3)** 1996 c. 25.

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- (i) Part 3 of Schedule 36 (further minor and consequential amendments: disclosure); and
- (j) Part 3 of Schedule 37 (repeals: disclosure).

(3) The coming into force of the provisions referred to in paragraph (2) is of no effect in relation to alleged offences into which a criminal investigation within the meaning of section 1(4) of the Criminal Procedure and Investigations Act 1996 has begun before 15th July 2005.

**3.—(1)** Section 307(4) (enforcement of regulations implementing Community legislation on endangered species)(4) shall come into force on 21st July 2005.

Home Office  
5th July 2005

*Fiona Mactaggart*  
Parliamentary Under-Secretary of State

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(4) The remainder of section 307 came into force on Royal Assent (see section 336(1)).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the provisions of the Criminal Justice Act 2003 which are listed in articles 2(2) and 3 on 15th July and 21st July 2005 respectively. Article 2(3) provides a saving provision in relation to the commencement of the provisions referred to in article 2(2) in respect of pre-commencement criminal investigations.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the 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 5 (partially) (drug testing for under-eighteens)	1.8.2004	2004/1867
Section 9 (taking fingerprints without consent)	5.4.2004	2004/829
Section 10 (taking non-intimate samples without consent)	5.4.2004	2004/829
Sections 13, 15(3), 16, 17, 18, 19 to 21 (bail)	5.4.2004	2004/829
	4.4.2005	2005/950
Sections 22 to 24 (conditional cautions)	3.7.2004	2004/1629
Section 25 (conditional cautions, code of practice)	29.1.2004	2004/81
Sections 26 and 27 (partially) (conditional cautions)	3.7.2004	2004/1629
Section 28 and Schedule 2 (partially) and section 31 (charging etc)	29.1.2004	2004/81
	3.7.2004	2004/1629
Sections 32, 33(2), 36 to 38 and 39 (disclosure) (partially) in relation to England and Wales	4.4.2005	2005/950

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 40 (code of practice for police interviews of witnesses notified by accused)	5.4.2004	2004/829
Section 41 (allocation of offences triable either way) (partially) and Schedule 3 (partially)	4.4.2005 9.5.2005	2005/950 2005/1267
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
Sections 57 to 61, 67 to 74 (prosecution appeals)	29.1.2004	2004/81
	4.4.2005	2005/950
Sections 75 to 96 and Schedule 5 (retrial for serious offences)	29.1.2004 4.4.2005, 18.4.2005	2004/81 2005/950
Section 97 (application of Criminal Appeal Acts)	7.3.2005	2005/373
Sections 98 to 113 and Schedule 6 (evidence of bad character)	29.1.2004 15.12.2004, 1.1.2005	2004/81 2004/3033
Sections 114 to 136 (hearsay evidence) and Schedule 7 (hearsay evidence: armed forces)	29.1.2004 4.4.2005	2004/81 2005/950
Section 139 to 141 (use of documents to refresh memory)	5.4.2004	2004/829
Sections 142 to 150, 152, 153, 156 to 160; 162 to 166.	7.3.2005 4.4.2005	2005/373 2005/950
Sections 167 and 168 (partially) and 169 to 173 (sentencing and allocation guidelines)	27.2.2004	2004/829
Section 174 (duty to give reasons for, and explain effect of, sentence)	5.4.2004 4.4.2005	2004/829 2005/950
Section 175 (duty to publish information about sentencing)	4.4.2005	2005/950
Section 176 (interpretation of Chapter 1)	5.4.2004	2004/829

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 177, 179 and 180 (community orders) and Schedule 8 (breach, revocation or amendment of community order) and Schedule 9 (transfer of community orders to Scotland or Northern Ireland) ( all partially)	4.4.2005	<a href="#">2005/950</a>
Section 178 (power to provide for court review of community orders)	7.3.2005	<a href="#">2005/373</a>
Sections 182 to 187 and Schedule 10 (prison sentences of less than 12 months) (all partially)	26.1.2004	<a href="#">2003/3282</a>
Sections 189 to 194 (suspended sentences); Schedule 12 (breach or amendment of suspended sentence order, and effect of further conviction) and Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland).	4.4.2005	<a href="#">2005/950</a>
Sections 195, 196 (partially), 197 to 203, 204 (partially), 205 to 212, 213 (partially), 214, 215, 216 (partially), 217 to 220 and Schedule 14, and sections 221 to 223 (further provisions about orders under Chapters 2 and 3).	26.1.2004 7.3.2005 4.4.2005	<a href="#">2003/3282</a> <a href="#">2005/373</a> <a href="#">2005/950</a>
Sections 224 to 236 (dangerous offenders); Schedule 15 (specified offences for the purposes of Chapter 5 of Part 12); Schedule 16 ( Scottish offences specified for the purposes of section 229(4)); Schedule 17 (Northern Ireland offences specified for the purposes of section 229(4)) and Schedule 18 (release of prisoners serving sentences of imprisonment or detention for public protection)	4.4.2005	<a href="#">2005/950</a>
Sections 237 to 243 ( release on licence: preliminary), 244	26.1.2004	<a href="#">2003/3282</a>

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
(partially) and 245 to 249, 250 to 251 (partially), 252 to 256, 257 (partially), 258 to 261, 263, 264 (partially), 265, 267 to 268 (release on licence) and Schedule 19 ( parole board: supplementary provisions)	7.3.2005	<a href="#">2005/373</a>
Section 262 and Schedule 20 (prisoners liable to removal from the United Kingdom: modifications of Criminal Justice Act 1991)	4.4.2005	<a href="#">2005/950</a>
Section 278 and Schedule 23 (deferment of sentence)	14.6.2004	<a href="#">2004/829</a>
Section 279 and Schedule 24 (drug treatment and testing requirement in action plan order or supervision order) (partially)	4.4.2005	<a href="#">2005/950</a>
Section 284 and Schedule 28 (increase in penalties for drug-related offences)	1.12.2004	<a href="#">2004/3033</a>
Section 285 (increase in penalties for certain driving-related offences)	29.1.2004	<a href="#">2004/81</a>
Section 286 (increase in penalties for offences under section 174 of the Road Traffic Act 1988)	27.2.2004	<a href="#">2004/81</a>
Sections 287 to 293 (firearms offences) and Schedule 29 (sentencing for firearms offences in Northern Ireland)	29.1.2004	<a href="#">2004/81</a>
Sections 294 to 297 (offenders transferred to mental hospital)	22.1.2004	<a href="#">2004/81</a>
Section 299 and Schedule 30 (disqualification from working with children)	20.1.2004	<a href="#">2004/81</a>
Section 300 and Schedule 31 (default orders) (partially)	1.5.2004	<a href="#">2004/829</a>
Section 301 (fine defaulters: driving disqualification) (partially)	7.3.2005	<a href="#">2005/373</a>
	7.3.2005	<a href="#">2005/373</a>

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 302 (execution of process between England and Wales and Scotland)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 303 (sentencing: repeals) ( partially)	4.4.2005	2005/950
Section 304 and Schedule 32 (amendments relating to sentencing) (partially)	26.1.2004	2003/3282
	22.1.2004	2004/81
	4.4.2005	2005/950
Section 305 (interpretation of Part 12)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 306 (detention of suspected terrorists)	20.1.2004	2004/81
Sections 308 to 312 (miscellaneous provisions about criminal proceedings)	4.4.2005	2005/950
Sections 313 and 314 (extension of investigations by Criminal Cases Review Commission in England and Wales and Northern Ireland)	1.9.2004	2004/1629
Section 315 (appeals following reference by the Criminal Cases Review Commission)	4.4.2005	2005/950
Sections 316 and 317 (power to substitute conviction of alternative offence on appeal in England and Wales and Northern Ireland)	1.9.2004	2004/1629
Section 318 (substitution of conviction on different charge on appeal from court-martial)	1.9.2004	2004/1629
Section 319 (appeals against sentence in England and Wales)	4.4.2005	2005/950
Section 320 (offence of outraging public decency triable either way)	20.1.2004	2004/81
Section 321 and Schedule 33 (jury service)	5.4.2004	2004/829
Sections 322 and 323 (individual support orders)	1.5.2004	2004/829

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 324 and Schedule 34 (parenting orders and referral orders)	27.2.2004	2004/81
Sections 325 to 327 (arrangements for assessing etc risks posed by sexual or violent offenders)	5.4.2004	2004/829
Section 328 and Schedule 35 (criminal record certificates: amendments of Part 5 of the Police Act 1997) (partially)	29.1.2004	2004/81
Section 329 (civil proceedings brought by offenders)	20.1.2004	2004/81
Section 331 and Schedule 36 (further minor and consequential amendments) (partially)	5.4.2004	2004/829
	1.9.2004	2004/1629
	15.12.2004	2004/3033
	1.1.2005	2005/950
	4.4.2005	
Section 332 and Schedule 37 (repeals) (partially)	20.1.2004, 29.1.2004, 27.2.2004	2004/81
		2004/829
	5.4.2004	2004/3033
	15.12.2004	2005/950
	4.4.2005	
Section 333 and Schedule 38 (supplementary and consequential provision, etc.) (partially)	27.2.2004	2004/81
	4.4.2005	2005/950