Draft Order laid before Parliament under section 330(5)(b) of the Criminal Justice Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No. (C.)

CRIMINAL LAW, ENGLAND AND WALES

CRIMINAL LAW, NORTHERN IRELAND

The Criminal Justice Act 2003 (Commencement No.12 and Transitory Provisions) Order 2005

Made - - - - 2005

The Secretary of State makes the following Order in exercise of the powers conferred upon him by sections 333(1) and (2)(a), and 336(3) of the Criminal Justice Act 2003(**a**);

In accordance with section 330(5)(b) of that Act a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament:

1.—(1) This Order may be cited as the Criminal Justice Act 2003 (Commencement No.12 and Transitory Provisions) Order 2005.

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

2.—(1) Subject to article 3, the provisions of the 2003 Act specified in paragraph (2) shall come into force on 1st January 2006.

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

(a) section 43 (applications by prosecution for certain fraud cases to be conducted without a jury);

(b) section 45 (procedure for applications under sections 43 and 44), in so far as it applies to applications under section 43;

(c) section 48 (further provision about trials without a jury), in so far as it applies to orders under section 43;

(d) section 50 (application of Part 7 to Northern Ireland), in so far as it applies to applications and orders under section 43; and

(e) in Schedule 36 (further minor and consequential amendments), Part 4.

3.—(1) Until the coming into force of paragraph 18 of Schedule 3 to the 2003 Act(**b**) section 43 (1)(b) of the 2003 Act shall have effect with the modification specified in paragraph (2).

(**a**) 2003 c.44.

(**b**) Paragraph 18 of Schedule 3 to the Criminal Justice Act 2003 inserts into the Crime and Disorder Act 1998 a new section 51B (notices in serious or complex fraud cases).

(2) The modification referred to in paragraph (1) is that section 43(1)(b) is to have effect as if there were substituted -

"(b) on or after 1st January 2006 -

(i) the defendant or defendants have been sent for trial under section 51 of the Crime and Disorder Act 1998(**a**) and the evidence of the offence or offences charged reveals a case of serious or complex fraud,

(ii) a notice of transfer has been given under section 4 of the Criminal Justice Act 1987(**b**) in respect of that offence or offences, or

(iii) a notice of transfer has been given under article 3 of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988(**c**) in respect of that offence or offences."

Home Office
2005

Parliamentary Under-Secretary of State

(**a**) 1998 c.37.
(**b**) 1987 c.38.
(**c**) S.I. 1988/1846 (N.I.16).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st January 2006 sections 43, 45, 48 and 50 of the Criminal Justice Act 2003 ("the 2003 Act") that provide for applications by the prosecution for certain fraud cases to be conducted without a jury, subject to the transitory provisions contained in article 3.

Section 43 of the 2003 Act is to apply where a notice has been given under section 51B of the Crime and Disorder Act 1998 ("the 1998 Act"). Section 51B is an amendment to the 1998 Act made by Schedule 3 to the 2003 Act, but is not yet in force. Article 3 of this Order modifies section 43(1)(b) to provide that prior to the commencement of section 51B section 43 shall apply in three comparable circumstances. The first is where on or after 1st January 2006 the defendant has been sent for trial under section 51 of the 1998 Act and the evidence against him reveals a case of serious or complex fraud. The second and third are where on or after 1st January 2006 a notice of transfer has been given under section 4 of the Criminal Justice Act 1987 or article 3 of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988, both of which involve a determination by the relevant prosecuting authority that the case is one of fraud of such seriousness or complexity that it is appropriate for its management to be taken over by the Crown Court.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Provision	*Date of Commencement*	*S.I. No.*
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 4.4.2005	2004/829 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 3.7.2004	2004/81 2004/1629
Sections 32, 33(2), 36 to 38 and 39 (disclosure) (partially)	4.4.2005 15.7.2005	2005/950 2005/1817
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 4.4.2005	2004/81 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
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	2005/950
Section 178 (power to provide for court review of community orders)	7.3.2005	2005/373
Sections 182 to 187 and Schedule 10 (prison sentences of less than 12 months) (all partially)	26.1.2004	2003/3282
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	2005/950

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	2003/3282 2005/373 2005/950
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	2005/950
Sections 237 to 243 (release on licence: preliminary), 244 (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)	26.1.2004 7.3.2005 4.4.2005	2003/3282 2005/373 2005/950
Section 262 and Schedule 20 (prisoners liable to removal from the United Kingdom: modifications of Criminal Justice Act 1991)	14.6.2004	2004/829
Section 278 and Schedule 23 (deferment of sentence)	4.4.2005	2005/950
Section 279 and Schedule 24 (drug treatment and testing requirement in action plan order or supervision order) (partially)	1.12.2004	2004/3033
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 the 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 299 and Schedule 30 (disqualification from working with children)	1.5.2004	2004/829
Section 300 and Schedule 31 (default orders) (partially)	7.3.2005	2005/373
Section 301 (fine defaulters: driving disqualification) (partially)	7.3.2005	2005/373
Section 302 (execution of process between England and Wales and Scotland)	26.1.2004 4.4.2005	2003/3282 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 22.1.2004 4.4.2005	2003/3282 2004/81 2005/950
Section 305 (interpretation of Part 12)	26.1.2004 4.4.2005	2003/3282 2005/950
Section 306 (detention of suspected terrorists)	20.1.2004	2004/81
Section 307(4) (enforcement of regulations implementing Community legislation on endangered species)(Scotland)	15.7.2005	2005/1817
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

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 1.9.2004 15.12.2004 1.1.2005 4.4.2005 15.7.2005	2004/829 2004/1629 2004/3033 2005/950 2005/1817
Section 332 and Schedule 37 (repeals) (partially)	20.1.2004, 29.1.2004, 27.2.2004 5.4.2004 15.12.2004 4.4.2005 15.7.2005	2004/81 2004/829 2004/3033 2005/950 2005/1817
Section 333 and Schedule 38 (supplementary and consequential provision, etc.) (partially)	27.2.2004 4.4.2005	2004/81 2005/950

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