



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 14

#### GENERAL

#### **330 Orders and rules**

- (1) This section applies to—
  - (a) any power conferred by this Act on the Secretary of State to make an order or rules;
  - (b) the power conferred by section 168 on the Lord Chancellor to make an order.
- (2) The power is exercisable by statutory instrument.
- (3) The power—
  - (a) may be exercised so as to make different provision for different purposes or different areas, and
  - (b) may be exercised either for all the purposes to which the power extends, or for those purposes subject to specified exceptions, or only for specified purposes.
- (4) The power includes power to make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,which the Minister making the instrument considers necessary or expedient.
- (5) A statutory instrument containing—
  - (a) an order under any of the following provisions—
    - section 25(5),
    - section 103,
    - section 161(7),
    - section 178,
    - section 197(3),
    - section 223,

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section 246(5),  
section 260,  
section 267,  
section 269(6),  
section 281(2),  
section 283(1),  
section 291,  
section 301(5),  
section 325(7), and  
paragraph 5 of Schedule 31,

- (b) an order under section 336(3) bringing section 43 into force,
- (c) an order making any provision by virtue of section 333(2)(b) which adds to, replaces or omits any part of the text of an Act, or
- (d) rules under section 240(4)(a),

may only be made if a draft of the statutory instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (6) Any other statutory instrument made in the exercise of a power to which this section applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to a statutory instrument containing only an order made under one or more of the following provisions—
  - section 202(3)(b),
  - section 215(3),
  - section 253(5),
  - section 325(6)(i), and
  - section 336.

### **331 Further minor and consequential amendments**

Schedule 36 (further minor and consequential amendments) shall have effect.

### **332 Repeals**

Schedule 37 (repeals) shall have effect.

### **333 Supplementary and consequential provision, etc.**

- (1) The Secretary of State may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.
- (2) An order under subsection (1) may, in particular—
  - (a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order, and

- (b) amend or repeal—
  - (i) any Act passed before, or in the same Session as, this Act, and
  - (ii) subordinate legislation made before the passing of this Act.
- (3) Nothing in this section limits the power by virtue of section 330(4)(b) to include transitional or saving provision in an order under section 336.
- (4) The amendments that may be made under subsection (2)(b) are in addition to those made by or under any other provision of this Act.
- (5) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (6) Schedule 38 (which contains transitory and transitional provisions and savings) shall have effect.

### **334 Provision for Northern Ireland**

- (1) An Order in Council under section 85 of the Northern Ireland Act 1998 (c. 47) (provision dealing with certain reserved matters) which contains a statement that it is made only for purposes corresponding to those of any provisions of this Act specified in subsection (2)—
  - (a) shall not be subject to subsections (3) to (9) of that section (affirmative resolution of both Houses of Parliament), but
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The provisions are—
  - (a) in Part 1, sections 1, 3(3), 4, 7 to 10 and 12 and paragraphs 1, 2, 5 to 10 and 20 of Schedule 1, and
  - (b) Parts 8, 9 and 11.
- (3) In relation to any time when section 1 of the Northern Ireland Act 2000 (c. 1) is in force (suspension of devolved government in Northern Ireland)—
  - (a) the reference in subsection (1) above to section 85 of the Northern Ireland Act 1998 shall be read as a reference to paragraph 1 of the Schedule to the Northern Ireland Act 2000 (legislation by Order in Council during suspension), and
  - (b) the reference in subsection (1)(a) above to subsections (3) to (9) of that section shall be read as a reference to paragraph 2 of that Schedule.
- (4) The reference in section 41(2) of the Justice (Northern Ireland) Act 2002 (c. 26) (transfer of certain functions to Director of Public Prosecutions for Northern Ireland) to any function of the Attorney General for Northern Ireland of consenting to the institution of criminal proceedings includes any such function which is conferred by an amendment made by this Act.
- (5) Any reference to any provision of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) in the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) is to be read as a reference to that provision as amended by this Act.

### **335 Expenses**

There shall be paid out of money provided by Parliament—

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- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act, and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

### **336 Commencement**

- (1) The following provisions of this Act come into force on the passing of this Act—
  - section 168(1) and (2),
  - section 183(8),
  - section 307(1) to (3), (5) and (6),
  - section 330,
  - section 333(1) to (5),
  - sections 334 and 335,
  - this section and sections 337, 338 and 339, and
  - the repeal in Part 9 of Schedule 37 of section 81(2) and (3) of the Countryside and Rights of Way Act 2000 (c. 37) (and section 332 so far as relating to that repeal), and
  - paragraphs 1 and 6 of Schedule 38 (and section 333(6) so far as relating to those paragraphs).
- (2) The following provisions of this Act come into force at the end of the period of four weeks beginning with the day on which this Act is passed—
  - Chapter 7 of Part 12 (and Schedules 21 and 22);
  - section 303(b)(i) and (ii);
  - paragraphs 42, 43(3), 66, 83(1) to (3), 84 and 109(2), (3)(b), (4) and (5) of Schedule 32 (and section 304 so far as relating to those provisions);
  - Part 8 of Schedule 37 (and section 332 so far as relating to that Part of that Schedule).
- (3) The remaining provisions of this Act come into force in accordance with provision made by the Secretary of State by order.
- (4) Different provision may be made for different purposes and different areas.

### **337 Extent**

- (1) Subject to the following provisions of this section and to section 338, this Act extends to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—
  - sections 71 and 72;
  - sections 82 and 83;
  - section 180 and Schedule 9;
  - section 188 and Schedule 11;
  - section 194 and Schedule 13;
  - section 293;
  - section 306
  - section 307;
  - section 311;
  - this Part, except sections 331, 332 and 334(5);

paragraphs 19, 70 and 71 of Schedule 3;  
paragraph 12(3) of Schedule 12;  
paragraphs 3, 6, 7 and 8 of Schedule 27;  
paragraphs 6 to 8 of Schedule 31.

- (3) The following provisions extend also to Scotland—  
section 50(14);  
section 286;  
sections 287, 288, and 291;  
section 302;  
paragraph 2 of Schedule 23;  
paragraphs 1, 2 and 5 of Schedule 27;  
paragraph 7 of Schedule 38.
- (4) Section 290 extends to Scotland only.
- (5) The following provisions extend also to Northern Ireland—  
Part 5;  
Part 7;  
sections 75 to 81;  
sections 84 to 93;  
sections 95 to 97;  
section 315;  
Schedule 5.
- (6) The following provisions extend to Northern Ireland only—  
section 292 and Schedule 29;  
sections 296 and 297;  
section 314;  
section 317;  
section 334(5).
- (7) The amendment or repeal of any enactment by any provision of—  
(a) Part 1,  
(b) section 285,  
(c) Part 2 of Schedule 3 (except as mentioned in subsection (8)),  
(d) Schedule 27,  
(e) Schedule 28,  
(f) Part 1 of Schedule 32,  
(g) Parts 1 to 4 and 6 of Schedule 36, and  
(h) Parts 1 to 4, 6 to 8, 10 and 12 of Schedule 37 (except as mentioned in subsection (9)),  
extends to the part or parts of the United Kingdom to which the enactment extends.
- (8) Paragraphs 29, 30, 31, 39, 41, 50, 53 and 63 of Schedule 3 do not extend to Northern Ireland.
- (9) The repeals in Part 4 of Schedule 37 relating to—  
(a) the Bankers' Books Evidence Act 1879 (c. 11),

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- (b) the Explosive Substances Act 1883 (c. 3),
  - (c) the Backing of Warrants (Republic of Ireland) Act 1965 (c. 45),
  - (d) the Customs and Excise Management Act 1979 (c. 2), and
  - (e) the Contempt of Court Act 1981 (c. 49),
- do not extend to Northern Ireland.
- (10) The provisions mentioned in subsection (11), so far as relating to proceedings before a particular service court, have the same extent as the Act under which the court is constituted.
- (11) Those provisions are—
- section 113 and Schedule 6;
  - section 135 and Schedule 7.
- (12) Nothing in subsection (1) affects —
- (a) the extent of Chapter 7 of Part 12 so far as relating to sentences passed by a court-martial, or
  - (b) the extent of section 299 and Schedule 30 so far as relating to the making of orders by, or orders made by, courts-martial or the Courts-Martial Appeal Court.
- (13) Any provision of this Act which—
- (a) relates to any enactment contained in—
    - (i) the Army Act 1955 (3 & 4 Eliz. 2 c. 18),
    - (ii) the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19),
    - (iii) the Naval Discipline Act 1957 (c. 53),
    - (iv) the Courts-Martial (Appeals) Act 1968 (c. 20),
    - (v) the Armed Forces Act 1976 (c. 52),
    - (vi) section 113 of the Police and Criminal Evidence Act 1984 (c. 60),
    - (vii) the Reserve Forces Act 1996 (c. 14), or
    - (viii) the Armed Forces Act 2001 (c. 19), and
  - (b) is not itself contained in Schedule 25 or Part 9 of Schedule 37,
- has the same extent as the enactment to which it relates.

### **338 Channel Islands and Isle of Man**

- (1) Subject to subsections (2) and (3), Her Majesty may by Order in Council extend any provision of this Act, with such modifications as appear to Her Majesty in Council to be appropriate, to any of the Channel Islands or the Isle of Man.
- (2) Subsection (1) does not authorise the extension to any place of a provision of this Act so far as the provision amends an enactment that does not itself extend there and is not itself capable of being extended there in the exercise of a power conferred on Her Majesty in Council.
- (3) Subsection (1) does not apply in relation to any provision that extends to the Channel Islands or the Isle of Man by virtue of any of subsections (10) to (13) of section 337.
- (4) Subsection (4) of section 330 applies to the power to make an Order in Council under subsection (1) as it applies to any power of the Secretary of State to make an order

under this Act, but as if references in that subsection to the Minister making the instrument were references to Her Majesty in Council.

**339 Short title**

This Act may be cited as the Criminal Justice Act 2003.