

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

BACKGROUND

Part 7: Miscellaneous and general

Trafficking people for exploitation

Repeal of provisions for conducting certain fraud cases without jury

71. The Programme for Government (section 3: civil liberties) states that the Government “*will protect historic freedoms through the defence of trial by jury*”.
72. Section 43 of the Criminal Justice Act 2003 (“the 2003 Act”) makes provision for the prosecution to apply for a serious or complex fraud trial to proceed in the absence of a jury. The judge may order the case to be conducted without a jury if he or she is satisfied that the length or complexity (or both) of the case is likely to make the trial so burdensome upon the jury that the interests of justice require serious consideration to be given to conducting the trial without a jury.
73. [Section 43](#) has not been implemented. By virtue of section 330(5)(b) of the 2003 Act, an order bringing section 43 into force is subject to the affirmative resolution procedure. A draft commencement order designed to bring section 43 of the 2003 Act into force was considered in standing committee in the House of Commons in November 2005. The order was then due to be debated in the House of Lords but the then Government withdrew the motion to approve it. Subsequently, in November 2006, the Government introduced the Fraud (Trials without a Jury) Bill which sought to repeal the requirement for an affirmative resolution. That Bill was defeated at Second Reading in the House of Lords on 20 March 2007 (Hansard, column 1146-1204).