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STATUTORY INSTRUMENTS

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**2003 No. 3283**

**CRIMINAL LAW, ENGLAND AND WALES**

**The Intermittent Custody (Transitory Provisions) Order 2003**

*Made* - - - - *15th December 2003*  
*Laid before Parliament* *17th December 2003*  
*Coming into force* - - *26th January 2004*

Whereas section 183 of the Criminal Justice Act 2003(1) is brought into force before the repeal by that Act of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000(2);

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 333 of, and paragraph 6 of Schedule 38 to, the Criminal Justice Act 2003, hereby makes the following Order:

**1.**—(1) This Order may be cited as the Intermittent Custody (Transitory Provisions) Order 2003 and shall come into force on 26th January 2004.

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

**2.** In relation to any time before the commencement of the repeal of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 by the 2003 Act, section 183(3) of the 2003 Act shall have effect with respect to sentences passed by magistrates' courts with the following modifications—

- (a) in subsection (4)(b), for “28”, substitute “14”;
- (b) in subsection (4)(c), for “51”, substitute “26”;
- (c) in subsection (5)(b), for “90”, substitute “45”;
- (d) in subsection (7)(a), for “65”, substitute “52”; and
- (e) in subsection (7)(b), for “180”, substitute “90”.

**3.** In relation to any time before the commencement of section 240 of the 2003 Act, section 241(4) of that Act shall have effect with the following modifications—

- (a) in subsection (1)—

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(1) 2003 c. 44.

(2) 2000 c. 6.

(3) Section 183 is brought into force on 26th January 2004 by S.I. 2003/

(4) Section 241 is brought into force on 26th January 2004 by S.I. 2003/

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (i) for “to whom a direction under section 240 relates”, substitute “whose sentence falls to be reduced under section 67 of the Criminal Justice Act 1967<sup>(5)</sup> by any relevant period within the meaning of that section (“the relevant period”); and
  - (ii) for “number of days specified in the direction are”, substitute “relevant period is”; and
- (b) in subsection (2), for “number of days specified in a direction under section 240”, substitute “relevant period”.

Home Office  
15th December 2003

*Paul Goggins*  
Parliamentary Under-Secretary of State

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## EXPLANATORY NOTE

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

This Order modifies certain provisions relating to sentences of imprisonment to which an intermittent custody order relates, contained in Part 12 of the Criminal Justice Act 2003 and brought into force on 26th January 2004 by the Criminal Justice Act 2003 (Commencement No. 1) Order 2003 (S.I.2003/3282).

Article 2 of this Order modifies section 183 of the 2003 Act, that section being brought into force before the repeal by the 2003 Act of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000. Article 2 modifies section 183 by reducing the length of the term of the sentence and number of custodial days that a magistrates' court may pass with respect to a sentence of imprisonment to which an intermittent custody order relates. This is necessary prior to the repeal of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000, which section limits the powers of a magistrates' court so that it can only impose terms of imprisonment of not more than six months.

Article 3 of this Order modifies section 241 of the 2003 Act, to ensure that, in relation to any provision in Chapter 3 or 6 of the 2003 Act which requires a particular proportion or period of the sentence to have been served, remand time calculated under section 67 of the Criminal Justice Act 1967 is counted as time served towards that proportion or period. This is necessary prior to the commencement of section 240 of the 2003 Act (which provides for the sentencing court to direct the number of days spent on remand which are to be counted as time served by a prisoner as part of his sentence) and the corresponding repeal of section 67 of the Criminal Justice Act 1967.