

2004 No. 81 (C.2)

**CRIMINAL LAW, ENGLAND AND WALES
CRIMINAL LAW, NORTHERN IRELAND**

**The Criminal Justice Act 2003 (Commencement No. 2 and
Saving Provisions) Order 2004**

Made - - - - - 15th January 2004

The Secretary of State, in exercise of the powers conferred upon him by section 330(4)(b) and 336(3) of the Criminal Justice Act 2003(a), hereby makes the following Order:

1.—(1) This Order may be cited as the Criminal Justice Act 2003 (Commencement No. 2 and Saving Provisions) Order 2004.

(2) In this Order—

“the 2003 Act” means the Criminal Justice Act 2003;

“the 2000 Act” means the Terrorism Act 2000(b).

2.—(1) The provisions of the 2003 Act listed in paragraph (2) shall come into force on 20th January 2004.

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

(a) sections 1, 2, 4, 6 to 8, 11 and 12 and Schedule 1 (amendments of the Police and Criminal Evidence Act 1984(c));

(b) sections 294 to 297 (offenders transferred to mental hospital);

(c) section 306 (limit on period of detention without charge of suspected terrorists);

(d) section 320 (offence of outraging public decency triable either way);

(e) section 329 (civil proceedings for trespass to the person brought by offender);

(f) section 332 (repeals) in so far as it relates to the entries in Schedule 37 referred to in sub-paragraph (g); and

(g) in Part 1 of Schedule 37 (repeals) the entries relating to—

(i) the Police and Criminal Evidence Act 1984 save for the reference to section 63(3)(a) of that Act;

(ii) the Criminal Justice and Public Order Act 1994(d);

(iii) the Armed Forces Act 2001(e); and

(iv) the Police Reform Act 2002(f).

(a) 2003 c. 44.
(b) 2000 c. 11.
(c) 1984 c. 60.
(d) 1994 c. 33.
(e) 2001 c. 19.
(f) 2002 c. 30.

(3) The commencement of section 306 of the 2003 Act does not alter the period of time that may be authorised by a warrant of further detention under Part III of Schedule 8 to the 2000 Act in relation to a person—

- (a) arrested before 20th January 2004 under section 41 of the 2000 Act; or
- (b) arrested on or after 20th January 2004 under section 41 of the 2000 Act if at the time of that arrest he was detained under Schedule 7 to that Act and his examination under that Schedule began before 20th January 2004.

3.—(1) The provisions of the 2003 Act listed in paragraph (2) shall come into force on 22nd January 2004.

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

- (a) section 42 (mode of trial for certain firearms offences: transitory arrangements);
- (b) sections 287 to 293 (firearms offences) and Schedule 29 (sentencing for firearms offences in Northern Ireland);
- (c) section 304 in so far as it relates to the provisions referred to in sub-paragraph (d); and
- (d) in Part 1 of Schedule 32 (amendments relating to sentencing), paragraphs 48 to 50.

4.—(1) The provisions of the 2003 Act listed in paragraph (2) shall come into force on 29th January 2004.

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

- (a) section 3 (arrestable offences);
- (b) section 25 (code of practice);
- (c) section 28 and Schedule 2 (charging or release of persons in police detention), except new section 37B(8) and (9)(a) of the Police and Criminal Evidence Act 1984(a);
- (d) section 31 (removal of requirement to substantiate information on oath);
- (e) section 49 (rules of court);
- (f) section 55 (rules of court);
- (g) section 73 (rules of court);
- (h) section 93 (rules of court);
- (i) section 111 (rules of court);
- (j) section 132 (rules of court);
- (k) section 284 and Schedule 28 (increase in penalties for drug-related offences);
- (l) section 286 (increase in penalties for offences under section 174 of the Road Traffic Act 1988(b));
- (m) section 328 (criminal record certificates: amendments of Part 5 of Police Act 1997(c)) in so far as it relates to the entries in Schedule 35 referred to in sub-paragraph (o);
- (n) section 332 (repeals) in so far as it relates to the entries in Schedule 37 referred to in sub-paragraph (p);
- (o) in Schedule 35 (criminal record certificates: amendments of Part 5 of the Police Act 1997)—
 - (i) paragraphs 1, 2, 3(1), (2)(b) and (c), 4(1), (2)(b) and (c), 7, 10 and 11; and
 - (ii) for the purpose of making regulations only, paragraphs 4(3) and 5; and
- (p) in Part 11 of Schedule 37 (repeals), the entry relating to section 120(3) of the Police Act 1997.

5.—(1) The provisions of the 2003 Act listed in paragraph (2) shall come into force on 27th February 2004.

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

- (a) sections 167, 168(3) to (5), and 169 to 173 (sentencing and allocation guidelines);
- (b) section 285 (increase in penalties for certain driving-related offences);

(a) New section 37B is inserted by paragraph 3 of Schedule 2 to the 2003 Act.

(b) 1988 c. 53.

(c) 1997 c. 50.

- (c) section 332 (repeals) in so far as it relates to the entry in Schedule 37 referred to in sub-paragraph (e);
- (d) section 324 and Schedule 34 (parenting orders and referral orders);
- (e) in Part 7 of Schedule 37 (repeals), the entry relating to sections 80 and 81 of the Crime and Disorder Act 1998(a);
- (f) section 333(6) (supplementary and consequential provision etc) in so far as it relates to the provisions referred to in sub-paragraph (g); and
- (g) in Schedule 38 (transitory, transitional and saving provisions), paragraphs 2 and 3.

Home Office
15th January 2004

Scotland of Asthal
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions of the Criminal Justice Act 2003 (c. 44) which are listed in articles 2, 3, 4 and 5 on 20th January 2004, 22nd January 2004, 29th January 2004 and 27th February 2004 respectively. Article 2(3) of the Order is a saving provision, needed to ensure that the amendments to the Terrorism Act 2000 (c. 11) made by section 306 of the 2003 Act apply to new cases only.

(a) 1998 c. 37.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act will be partially brought into force on 26th January 2004 under the Criminal Justice Act 2003 (Commencement No. 1) Order 2003 (S.I. 2003/3282 (C.129)).

Section 182(1) and (3) to (5) (licence conditions)

Section 183(1) to (7) and (9) (intermittent custody)

Sections 184 to 186 (restrictions on power to make intermittent custody order; intermittent custody; licence conditions; further provisions relating to intermittent custody)

Section 187 and Schedule 10 (revocation or amendment of order)

Section 195 (interpretation of Chapter 3)

Section 196(1)(d) and (2) (meaning of “relevant order”)

Sections 197 to 199 (meaning of “the responsible officer”; duties of responsible officer; unpaid work requirement)

Section 200(1) (obligations of person subject to unpaid work requirement)

Sections 201 to 203 (activity requirement; programme requirement; prohibited activity requirement)

Section 204(1) and (2), and (5) and (6) (curfew requirement)

Section 205(1), (3) and (4) (exclusion requirement)

Sections 213(1), (2) and (3)(c), 214 and 215 (supervision requirement; attendance centre requirement; electronic monitoring requirement)

Sections 216(2)(b), 217 and 218 (petty sessions area to be specified in relevant order; requirement to avoid conflict with religious beliefs, etc; availability of arrangements in local area)

Section 219(1)(a), (b) and (d), (2) and (3) and Schedule 14 (provision of copies of relevant orders)

Sections 221, 222 and 223(1), (2) and (3)(a) and (b) (powers of Secretary of State)

Sections 237 and 239 and Schedule 19 (meaning of “fixed-term prisoner”; the Parole Board)

Section 241 (effect of direction under section 240 on release on licence)

Section 244(1), (2) and (3)(c) and (d) (duty to release prisoners)

Section 245 (restrictions on operation of section 244(1) in relation to intermittent custody prisoners)

Section 246(1)(b), (3), (4)(b) to (i), (5) and (6) (power to release prisoners on licence before required to do so)

Section 248(1) (power to release prisoners on compassionate grounds)

Sections 249 and 250(1) to (3) and (5) to (8) (duration of licence; licence conditions)

Sections 251 to 253 (licence conditions on re-release of prisoner serving sentence of less than 12 months; duty to comply with licence conditions; curfew condition to be included in licence under section 246)

Sections 254 to 256 (recall after release)

Section 257 (additional days)

Section 259 (persons liable to removal from the United Kingdom)

Sections 263 to 265 (consecutive or concurrent terms; restriction on consecutive sentences for released prisoners)

Section 268 (interpretation of Chapter 6)

Section 302 (execution of process between England and Wales and Scotland)

Section 304 and paragraphs 11, 12(1) to (3) and (6), 29, 57 and 58 of Schedule 32 (amendments relating to sentencing)

Section 305(1) to (3) (interpretation of Part 12).

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