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STATUTORY INSTRUMENTS

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**2005 No. 950 (C.42)**

**CRIMINAL LAW**

**The Criminal Justice Act 2003 (Commencement No.8  
and Transitional and Saving Provisions) Order 2005**

*Made - - - - 24th March 2005*

The Secretary of State, in exercise of the powers conferred upon him by sections 330(4)(b), 336(3) and (4) of the Criminal Justice Act 2003<sup>(1)</sup> hereby makes the following Order:

**1.—**(1) This Order may be cited as the Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005.

(2) In this Order—

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

“the Sentencing Act ” means the Powers of Criminal Courts (Sentencing) Act 2000<sup>(2)</sup>.

**2.—**(1) Subject to paragraph (2) and Schedule 2, the provisions of the 2003 Act specified in Schedule 1 shall come into force on 4<sup>th</sup> April 2005.

(2) In so far as they apply where a person aged 16 or 17 is convicted of an offence, sections 177 and 179 to 180 of and Schedules 8 and 9 to the 2003 Act (community orders) shall come into force on 4<sup>th</sup> April 2007.

**3.—**(1) The provisions of the 2003 Act specified in paragraph (2) shall come into force on 18<sup>th</sup> April 2005.

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

(a) section 96 (application of Part 10 to Northern Ireland);

(b) Part 2 of Schedule 5 (list of offences for Northern Ireland);

(c) in Schedule 36 (further minor and consequential amendments), paragraphs 91, 92(6) and 94.

**4.—**(1) Subject to Schedule 2, the provisions of the 2003 Act specified in paragraph (2) shall come into force on 4<sup>th</sup> April 2007.

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(1) 2003 c. 44; section 333(3) is relevant to the scope of the powers in section 330(4)(b).

(2) 2000 c. 6.

(2) The provisions referred to in paragraph (1) are paragraphs 99, 122, 123(3) and (5) (in so far as not already in force) and 125 of Schedule 32 (amendments relating to sentencing).

Home Office  
24th March 2005

*Scotland of Asthal, Q.C.*  
Minister of State

## SCHEDULE 1

## Article 2

### PROVISIONS OF THE CRIMINAL JUSTICE ACT 2003 COMING INTO FORCE ON 4TH APRIL 2005

1. Section 18 (bail: appeal by prosecution).
2. In relation to England and Wales, sections 32, 33(2), 36 to 38, and 39 except in so far as it inserts new section 11(4), (7) and (11) of the Criminal Procedure and Investigations Act 1996<sup>(3)</sup>.
3. Section 41 (allocation of offences triable either way) in so far as it relates to the provisions referred to in paragraph 29.
4. Sections 57 to 61, 67 to 72 and 74 (prosecution appeals).
5. Sections 75 to 92, 94 and 95 (retrial for serious offences).
6. Sections 114 to 131 and 133 to 136 (hearsay evidence).
7. Sections 142 to 150, 152, 153, 156 to 160, 162 to 166, 174 and 175 (general provisions about sentencing) (in the case of sections 158, 159 and 174 in so far as they are not already in force).
8. Sections 177, 179 and 180 (community orders).
9. Sections 189 to 194 (suspended sentences)<sup>(4)</sup>.
10. Section 195 (interpretation) in so far as it is not already in force.
11. Section 196(1)(a) and (c) (meaning of relevant order).
12. Sections 197 and 198 (responsible officers) in so far as they are not already in force.
13. Sections 199 to 204(1) to (3) and (6), and 205 to 213(1) to (3)(a) and (d) (requirements available in case of all offenders) in so far as they are not already in force.
14. Section 214 (requirements available only in case of offenders aged under 25) in so far as it is not already in force.
15. Section 215 (electronic monitoring) in so far as it is not already in force.
16. Sections 216(1) and 217 to 220 (provisions applying to relevant orders generally) in so far as they are not already in force.
17. Section 221 (provision of attendance centres) in so far as it is not already in force.
18. Sections 224 to 236 (dangerous offenders).
19. Sections 237 to 244(1), (2) and (3)(a) and (d), 246 to 250(1) and (4) to (7), 252 to 257 (except 257(2)(c)), 258 to 261, 263, 264 (1) to (3), (6) and (7), 265, and 268 (release on licence), in so far as they are not already in force.
20. Section 278 and Schedule 23 (deferment of sentence).
21. Section 302 (execution of process between England and Wales and Scotland) in so far as it is not already in force.
22. Section 303(a), (c) and (d) (sentencing: repeals).
23. Section 304 (amendments relating to sentencing) in so far as it relates to the provisions referred to in paragraph 42.

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(3) 1996 c. 25.

(4) See S.I. 2005/643, which makes transitory provision in relation to suspended and community sentences, and the sentencing of offenders aged 18 but under 21. Affected provisions are sections 189, 224, 225, 227, 236, 237, 238, 240, 250, 258, 263, 264, 265, and Schedules 8, 12 and 18.

24. Section 305 (interpretation of Part 12) in so far as it is not already in force.
25. Sections 308 to 312, 315 and 319 (miscellaneous provisions about criminal proceedings).
26. Section 331 (further minor and consequential amendments) in so far as it relates to the provisions referred to in paragraph 43.
27. Section 332 (repeals) in so far as it relates to the provisions referred to in paragraph 44.
28. Section 333(6) (supplementary and consequential provision) in so far as it relates to the provision referred to in paragraph 45.
29. In Schedule 3 (allocation of cases triable either way)—
  - (a) paragraph 18—
    - (i) in so far as it inserts new section 51A of the Crime and Disorder Act 1988<sup>(5)</sup>, except subsection (3)(a) to (c) of that section; and
    - (ii) in so far as it inserts new sections 51D and 51E, in relation to cases sent under 51A(3) (d) of that Act;
  - (b) paragraph 23 in so far as it inserts new section 3C of the Sentencing Act<sup>(6)</sup>; and
  - (c) paragraphs 27 and 28 in relation to cases committed under section 3C of the Sentencing Act.
30. Parts 1 and 3 of Schedule 5 (qualifying offences for purposes of Schedule 10).
31. Schedule 7 (hearsay evidence: armed forces).
32. Schedule 8 (breach, revocation or amendment of community order)<sup>(7)</sup>.
33. Schedule 9 (transfer of community orders to Scotland or Northern Ireland).
34. Schedule 12 (breach or amendment of suspended sentence order, and effect of further conviction).
35. Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland).
36. Schedule 14 (persons to whom copies of requirements to be provided in particular cases) in so far as it is not already in force.
37. Schedule 15 (specified offences for purposes of Chapter 5 of Part 12).
38. Schedule 16 (Scottish offences specified for the purposes of section 229(4)).
39. Schedule 17 (Northern Ireland offences specified for the purposes of section 229(4)).
40. Schedule 18 (release of prisoners serving sentences of imprisonment or detention for public protection).
41. Schedule 19 (parole board: supplementary provisions) in so far as it is not already in force.
- 42.—(1) The following paragraphs of Schedule 32 (amendments relating to sentencing).
  - (2) Paragraph 1 (Piracy Act 1837 (c. 88)).
  - (3) Paragraph 2 (Children and Young Persons Act 1933 (c. 12)).
  - (4) Paragraph 3 (Prison Act 1952 (c. 52)).
  - (5) Paragraphs 4 to 6 (Criminal Justice Act 1967 (c. 80)).
  - (6) Paragraphs 7 to 10 (Criminal Appeal Act 1968 (c. 19)).

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<sup>(5)</sup> 1998 c. 37.

<sup>(6)</sup> 2000 c. 6.

<sup>(7)</sup> Schedule 8 is amended by Schedule 5 to the Domestic Violence, Crime and Victims Act 2004 (c. 28).

- (7) Paragraphs 12 (in so far as it is not already in force) and 13 (Firearms Act 1968 (c. 27)).
- (8) Paragraph 14 (Social Work (Scotland) Act 1968 (c. 49)).
- (9) Paragraph 15 (Children and Young Persons Act 1969 (c. 54)).
- (10) Paragraph 16 (Immigration Act 1971 (c. 77)).
- (11) Paragraph 18 (Rehabilitation of Offenders Act 1974 (c. 53)).
- (12) Paragraphs 20 to 23 (Bail Act 1976 (c. 3)).
- (13) Paragraph 24 (Criminal Law Act 1977 (c. 45)).
- (14) Paragraphs 25, 26 and 30 (Magistrates' Courts Act 1980 (c. 43)).
- (15) Paragraph 31 (Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)).
- (16) Paragraph 32 (Public Passenger Vehicles Act 1981 (c. 14)).
- (17) Paragraphs 34 to 36 (Criminal Justice Act 1982 (c. 47)).
- (18) Paragraphs 37 to 39 (Mental Health Act 1983 (c. 20)).
- (19) Paragraphs 40, 41, and 43 in so far as it is not already in force (Repatriation of Prisoners Act 1984 (c. 47)).
- (20) Paragraph 44 (Police and Criminal Evidence Act 1984 (c. 60)).
- (21) Paragraph 45 to 47 (Criminal Justice Act 1988 (c. 33)).
- (22) Paragraph 54 and paragraph 52 in so far as it relates to it (Road Traffic Offenders Act 1988 (c. 53)).
- (23) Paragraphs 55 and 56 (Football Spectators Act 1989 (c. 37)).
- (24) Paragraphs 59 to 61 (Children Act 1989 (c. 41)).
- (25) Paragraph 64 and paragraph 62 in so far as it relates to it (Criminal Justice Act 1991 (c. 53)).
- (26) Paragraph 65 (Aggravated Vehicle-Taking Act 1992 (c. 11)).
- (27) Paragraph 67 (Criminal Justice and Public Order Act 1994 (c. 33)).
- (28) Paragraph 68(1), (3) and (4) (Goods Vehicles (Licensing of Operators) Act 1995 (c. 23)).
- (29) Paragraphs 69 to 72 (Criminal Procedure (Scotland) Act 1995 (c. 46)).
- (30) Paragraph 73 (Education Act 1996 (c. 56)).
- (31) Paragraphs 74 to 81 (Criminal Justice (Northern Ireland) Order 1996 (S.I.1996/3160 (N.I. 24))).
- (32) Paragraphs 82, 83(4), 85 and 86 (Crime (Sentences) Act 1997 (c. 43)).
- (33) Paragraph 87 to 89 (Crime and Disorder Act 1998 (c. 37)).
- (34) Paragraphs 91 to 98, 100 to 102(1), (2)(a), and (4), 103 to 108, 109(3)(a) and 109(1) in so far as it relates to it, 110 to 121, 123 (except subparagraph (3) and in sub-paragraph (5) the words “paragraph 7 of Schedule 3 of” and “paragraph 4(2)(a) or 5(2)(a) of Schedule 3 or”), 124, 126 to 129, and paragraph 90 in so far as it relates to them (the Sentencing Act).
- (35) Paragraphs 130 to 132 (Child Support, Pensions and Social Security Act 2000 (c. 19)).
- (36) Paragraphs 133 to 138 (Criminal Justice and Court Services Act 2000 (c. 43)).
- (37) Paragraph 139 (International Criminal Court Act 2001 (c. 17)).
- (38) Paragraph 141 (Proceeds of Crime Act 2002 (c. 29)).
- (39) Paragraphs 142 to 144 (Sexual Offences Act 2003 (c. 42)).
- 43.** In Schedule 36 (further minor and consequential amendments)—
  - (a) in relation to England and Wales, Part 3 (disclosure);

- (b) in Part 5 (evidence), paragraphs 81 to 84 in so far as they are not already in force; and
- (c) in Part 6 (miscellaneous), paragraphs 87, 88, 90, 95 (and 91 in so far as it relates to it) and 96.

**44.**—(1) The following entries in Schedule 37 (repeals).

(2) In relation to England and Wales, Part 3 (disclosure).

(3) Part 6 (hearsay evidence).

(4) In Part 7 of Schedule 37 (repeals)—

- (a) the entry relating to the Piracy Act 1837(c. 88);
- (b) the entry relating to the Criminal Justice Act 1967(8);
- (c) the entry relating to the Criminal Appeal Act 1968(9);
- (d) the entry relating to the Social Work (Scotland) Act 1968(10);
- (e) the entry relating to the Bail Act 1976(11);
- (f) the entry relating to the Magistrates' Courts Act 1980(12) in so far as it extends to Schedule 6A of that Act;
- (g) the entry relating to the Mental Health Act 1983(13);
- (h) the entry relating to the Road Traffic Offenders Act 1988(14);
- (i) the entry relating to the Football Spectators Act 1989(15) in so far as it extends to section 7(9) of that Act;
- (j) the entry relating to the Children Act 1989(16);
- (k) the entry relating to the Criminal Justice Act 1991(17) in so far as it extends to sections 32 to 51 and Schedule 5 of that Act;
- (l) the entry relating to the Prisoners and Criminal Proceedings (Scotland) Act 1993(18);
- (m) the entry relating to the Criminal Justice and Public Order Act 1994(19);
- (n) the entry relating to the Criminal Procedure (Scotland) Act 1995(20);
- (o) the entry relating to the Crime (Sentences) Act 1997(21) in so far as it extends to Schedules 1, 2 and 4 of that Act;
- (p) the entry relating to the Crime and Disorder Act 1998(22) in so far as it extends to sections 18, 38, 59 and 60, 99 and 100, 101, 103 to 105 and 121 of that Act;
- (q) the entry relating to the Access to Justice Act 1999(23);
- (r) the entry relating to the Sentencing Act in so far as it extends to sections 6, 12, 34 to 36A, 36B, 37, 40A, 41 to 59, 62, 69, 73, 79 to 82, 84, 85, 87 and 88, 100, 109,110, 111,112 to

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(8) 1967 c. 80.

(9) 1968 c. 19.

(10) 1968 c. 49.

(11) 1976 c. 63.

(12) 1980 c. 43.

(13) 1983 c. 20.

(14) 1988 c. 53.

(15) 1989 c. 37.

(16) 1989 c. 41.

(17) 1991 c. 53.

(18) 1999 c. 9.

(19) 1994 c. 33.

(20) 1995 c. 46.

(21) 1997 c. 43.

(22) 1998 c. 37.

(23) 1999 c. 22.

115, 116 and 117, 118 to 125, 126 to 129, 151 to 153, 156 to 158, 159 and 160, 161, 162, 163, and 168 of, and Schedules 2, 4, 7 and 8 to, that Act;

(s) the entry relating to the Terrorism Act 2000 (c. 11);

(t) the entry relating to the Criminal Justice and Court Services Act 2000(24) in so far as it extends to sections 47 to 51, 53 to 55, 63 and 78(1) of and Schedule 7 to that Act; and

(u) the entry relating to the Anti-Terrorism, Crime and Security Act 2001(25).

(5) In Part 12 (miscellaneous) the entry relating to section 12 of the Magistrates' Courts Act 1980(26).

45. Paragraph 7 of Schedule 38 (transitory, transitional and saving provisions).

## SCHEDULE 2

Articles 2 and 4

### TRANSITIONAL AND SAVING PROVISIONS

#### Interpretation

1. In this Schedule—

“the 1991 Act” means the Criminal Justice Act 1991;

“the 1997 Act” means the Crime (Sentences) Act 1997;

#### *Pre commencement offences*

#### Savings relating to Parts 2, 5 and 9 of the 2003 Act

2. The coming into force of the provisions referred to in paragraphs 2, 43(a) and 44(2) of Schedule 1 to this Order is of no effect in relation to alleged offences into which a criminal investigation within the meaning of section 1(4) of the Criminal Procedure and Investigation Act 1996(27) has begun before 4<sup>th</sup> April 2005.

3.—(1) In the case of any criminal proceedings falling under paragraph (2)—

(a) the coming into force of sections 18, 57 to 61, 67 to 72 and 74 of the 2003 Act confers no additional prosecution right of appeal;

(b) the coming into force of sections 309 and 310 of the 2003 Act confers no additional power to order a preparatory hearing on a judge of the Crown Court; and

(c) the coming into force of section 311 of the 2003 Act does not alter the jurisdiction in which reporting restrictions may apply in those proceedings.

(2) The criminal proceedings to which this paragraph applies are those in which one of the following occurred before 4<sup>th</sup> April 2005—

(a) the defendant was committed for trial;

(b) the proceedings were transferred to the Crown Court under section 53 of the Criminal Justice Act 1991(28) or section 4 of the Criminal Justice Act 1987(29);

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(24) 2000 c. 43.

(25) 2001 c. 24.

(26) 1980 c. 43.

(27) 1996 c. 25.

(28) 1991 c. 53.

*Status: This is the original version (as it was originally made).*

- (c) an order was made by a magistrates court that the accused be sent for trial for an indictable only offence under section 51 of the Crime and Disorder Act 1998<sup>(30)</sup>; or
- (d) a bill of indictment was preferred by the direction or with the consent of a judge of the High Court.

#### **Transitional Provisions relating to Chapter 1 of Part 12**

4. Where a court is dealing with an offender in relation to an offence committed before 4<sup>th</sup> April 2005, section 156 of the 2003 Act shall be treated as if—

- (a) the references in subsection (1) to section 148(1), (2)(b) or (3)(b), section 152(2) and 153(2) of that Act were references to section 35(1) and (3)(b), 79(2)(a) and 80(2)(a) of the Sentencing Act;
- (b) the references in subsection (2) to section 148(2)(a) and (3)(a) of that Act were to section 35(3)(a) of the Sentencing Act;
- (c) the references in subsection (3)(a) to section 152(2), 153(2), 225(1)(b), 226(1)(b), 227(1)(b), 228(1)(b)(i) were references to sections 79(2), or 80(2) of the Sentencing Act; and
- (d) the references in subsection (3)(b) to sections 148(1), (2)(b) and (3)(b) of that Act were to sections 35(1) and (3)(b) of the Sentencing Act.

#### **Saving Provisions relating to Chapters 1 to 5 of Part 12**

5.—(1) The coming into force of the provisions mentioned in paragraph (2) is of no effect in relation to an offence committed before 4<sup>th</sup> April 2005.

(2) The provisions to which this paragraph applies are—

- (a) sections 146 to 150, 152, 153, 166, 177, 179, 180, and 189 to 194 of and Schedules 8, 9, 12, 13 and 14 to the 2003 Act;
- (b) in Schedule 32 (amendments relating to sentencing), paragraphs 2, 5 and 6(a), 8 and 9, 12(4) and (5), 13 to 15, 18(1) and (3), 20 to 23, 26, 31, 32, 35, 36, 38, 47, 54, 59 to 61, 64, 67, 68(1), (3) and (4), 69 to 81, 88, 89, 91, 92, 94 to 97(2) and (3), 98, 99, 100(2) and (3), 101, 102(1) and (2)(a), 103, 104(2) and (3), 105, 106(2), 107, 110, 122, 123, and 125 to 129, 130 to 132, 134, 135, 138, 141, and 144;
- (c) in Part 7 of Schedule 37 (repeals)—
  - (i) the entry relating to section 18 of the Crime and Disorder Act 1998<sup>(31)</sup>;
  - (ii) the entry relating to section 104(1) of the Criminal Justice Act 1967<sup>(32)</sup>;
  - (iii) the entry relating to section 11(4) of the Criminal Appeal Act 1968<sup>(33)</sup>;
  - (iv) the entry relating to the Social Work (Scotland) Act 1968<sup>(34)</sup>;
  - (v) the entry relating to the Bail Act 1976<sup>(35)</sup>;
  - (vi) the entry relating to Schedule 6A of the Magistrates' Courts Act 1980<sup>(36)</sup>;
  - (vii) the entry relating to the Road Traffic Offenders Act 1988<sup>(37)</sup>;

(29) 1987 c. 38.

(30) 1998 c. 37.

(31) 1998 c. 37.

(32) 1967 c. 80.

(33) 1968 c. 19.

(34) 1968 c. 49.

(35) 1976 c. 63.

(36) 1980 c. 43.

(37) 1988 c. 53.



- (viii) the entry relating to section 7(9) of the Football Spectators Act 1989<sup>(38)</sup>;
- (ix) the entry relating to the Children Act 1989<sup>(39)</sup>;
- (x) the entry relating to the Criminal Justice and Public Order Act 1994<sup>(40)</sup>;
- (xi) the entry relating to the Criminal Procedure (Scotland) Act 1995<sup>(41)</sup>;
- (xii) the entry relating to sections 34 to 36A, 36B, 37(9), 40A(4) and (9), 41 to 59, 62, 79 and 80, 85, 109, 118 to 125, 151 to 153, 158 to 161(2) to (4) and 163 of and Schedules 2, 4, 7 and 8 to the Sentencing Act;
- (xiii) the entry relating to section 47 to 51, 53 to 55, 63 and 78(1) of and Schedule 7 to the Criminal Justice and Court Services Act 2000<sup>(42)</sup>.

(3) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of paragraph (1) to have been committed on the last of those days.

**6.** The coming into force of—

- (a) paragraphs 37, 38, 46, 93, 117, 120 and 124 of Schedule 32 to the 2003 Act; and
- (b) Part 7 of Schedule 37 to the 2003 Act in so far as it relates to—
  - (i) section 37(1B) of the Mental Health Act 1983;
  - (ii) sections 112 to 115, and 127 of the Sentencing Act,

is of no effect in a case in which a court is dealing with a person whose sentence falls to be imposed under section 109 of the Sentencing Act.

*Community sentences*

**Transitional provisions**

**7.** Until the coming into force of sections 177 and 179 to 180 (community orders) of the 2003 Act in accordance with article 2(2) of this Order, the transitional provisions in paragraphs 8 to 10 shall have effect.

**8.** Sections 41 to 58 of and Schedules 2 and 4 to the Sentencing Act shall continue to have effect (subject to any necessary modifications) where a person aged 16 or 17 is convicted of an offence as if—

- (a) for “sections 34 to 36 above” in sections 41(1), 46(1), 51(1) and 52(1) there were substituted “sections 148, 150 and 156 of the Criminal Justice Act 2003”;
- (b) sections 41(4), (7) and (9)(a); 42(2)(b) to (3); 46(5)(a), (10), 11(a); 47(3A) to (4); and 52(6) were omitted;
- (c) paragraphs 2(2)(a)(i) and 3(2)(a) of Schedule 2 were omitted; and
- (d) paragraphs 1(3)(a) and 2(3)(a) of Schedule 4, in so far as they relate to paragraph 2(2)(a)(i) of Schedule 2 to the Sentencing Act, were omitted.

**9.** Notwithstanding the substitution of section 33 (community orders) and the amendment to section 165 (interpretation) of the Sentencing Act by Schedule 32 to the 2003 Act, orders made under sections 41 to 58 of the Sentencing Act (community rehabilitation orders, community punishment orders, community punishment and rehabilitation orders and drug treating and testing orders) shall

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<sup>(38)</sup> 1989 c. 37.

<sup>(39)</sup> 1989 c. 41.

<sup>(40)</sup> 1994 c. 33.

<sup>(41)</sup> 1995 c. 46.

<sup>(42)</sup> 2000 c. 43

continue to be regarded as community orders and community sentences for the purposes of the Sentencing Act.

**10.** Notwithstanding sections 147 (meaning of community sentence), 177 (community orders) and 305 (interpretation) of the 2003 Act, orders made under sections 41 to 58 of the Sentencing Act shall also be regarded as community orders and community sentences for the purposes of the provisions specified in paragraphs (a) and (b)–

- (a) sections 148 to 150, 152, 156, 166 and 174 of the 2003 Act; and
- (b) the amendments made by paragraphs 8, 12(4) and 5, 13(2) and (3), 18(3), 21(3), 31, 38, 73, 89, 123(4), 131, 132 and 134(a) of Schedule 32 to the 2003 Act.

**11.** Until the coming into force of paragraph 125 (substitution of Schedule 3 to the Sentencing Act) of Schedule 32 to the 2003 Act in accordance with article 4 of this Order, Schedule 3 to the Sentencing Act shall continue to have effect (subject to any necessary modifications) as if–

- (a) the reference in paragraphs 5(2) and 21(6)(b) to “section 79(2) of this Act” were to “section 152(3) of the Criminal Justice Act 2003”; and
- (b) the reference in paragraphs 7(5) and 8(3) to “sections 35 and 36 of this Act” were to “sections 148 and 156 of the Criminal Justice Act 2003”.

### **Savings**

**12.** Until the coming into force of sections 177 and 179 to 180 of the 2003 Act in accordance with article 2(2) of this Order, the provisions of the 2003 Act specified in paragraph 13 shall have no effect where a person aged 16 or 17 is convicted of an offence or in relation to orders made under sections 41 to 58 of the Sentencing Act by virtue of paragraph 8.

**13.** The provisions referred to paragraph 12 are–

- (a) section 303(d)(i) (repeal of Chapter 3 of Part 4 of the Sentencing Act);
- (b) in Schedule 32, the amendments made by paragraphs 5, 14, 32, 36, 64, 69 to 72, 78(3), 96, 97(2)(a) and (3), 98, 100(2)(a) in so far as it substitutes “16” for “21”, (2) (c) and (3), 101, 102(2)(a) and (4), 104(3) and 106(2);
- (c) In Schedule 37, the entries relating to–
  - (i) section 94(1) of the Social Work (Scotland) Act 1968 (c. 49);
  - (ii) sections 35(2), 36B, 37(9) and 41 to 58 of and Schedules 2 and 4 to the Sentencing Act.

### *Saving and Transitional Provisions relating to Chapter 6 of Part 12*

#### **Saving for prisoners serving sentences of imprisonment of less than 12 months**

**14.** The coming into force of sections 244 to 268 of, and paragraph 30 of Schedule 32 to the 2003 Act, and the repeal of sections 33 to 51 of the 1991 Act, is of no effect in relation to any sentence of imprisonment of less than twelve months (whether or not such a sentence is imposed to run concurrently or consecutively with another such sentence).

#### **Power of court to recommend licence conditions for certain prisoners**

**15.** The coming into force of section 238 of the 2003 Act (power of court to recommend licence conditions) is of no effect in a case in which a court sentences an offender in respect of an offence committed before 4<sup>th</sup> April 2005.

## **The Parole Board**

**16.** Where the Parole Board is—

- (a) by virtue of paragraph 14 of this Schedule, dealing with a prisoner serving a sentence of less than 12 months; or
- (b) by virtue of paragraph 19 of this Schedule, dealing with a prisoner serving a term of imprisonment in respect of an offence committed before 4<sup>th</sup> April 2005,

any reference in section 239 of the 2003 Act to Chapter 6 of that Act shall be treated as a reference to Part 2 of the 1991 Act.

## **Remand Time**

**17.** The coming into force of section 243 of the 2003 Act (persons extradited to the United Kingdom) is of no effect in the case of an extradited prisoner where the offence referred to in subsection (1) of section 243 was committed before 4<sup>th</sup> April 2005.

**18.** The coming into force of paragraph 10 of Schedule 32 to the 2003 Act is of no effect in a case where a court has imposed a sentence on conviction on retrial in respect of an offence committed before 4<sup>th</sup> April 2005.

## **Savings for prisoners convicted of offences committed before 4<sup>th</sup> April 2005**

**19.** The coming into force of—

- (a) sections 244 (duty to release prisoners), 246 (power to release prisoners before required to do so), 248 (power to release on compassionate grounds), 249 (duration of licence) and 250 (licence conditions);
- (b) paragraph 8(2)(b) of Schedule 32 (Criminal Appeal Act 1968<sup>(43)</sup>);
- (c) the repeal of sections 33, 33A to 38A, 40A to 44, and 46 to 47 and 51 of the 1991 Act; and
- (d) the repeal of sections 59 and 60, 99 and 100, 101, 103 to 105 and 121 of the Crime and Disorder Act 1998,

is of no effect in relation to a prisoner serving a sentence of imprisonment imposed in respect of an offence committed before 4<sup>th</sup> April 2005.

**20.** The coming into force of the repeal of sections 49 and 50 of the 1991 Act does not affect the power of the Secretary of State to make orders under those provisions relating to prisoners serving sentences of imprisonment in respect of offences committed before 4<sup>th</sup> April 2005.

**21.** The coming into force of the repeal of section 38 of the Crime and Disorder Act 1998 is of no effect in relation to a child or young person whose post-release supervision relates to a sentence in respect of an offence committed before 4<sup>th</sup> April 2005.

**22.** Until the repeal of section 34A of the 1991 Act comes fully into force, subsection (2)(g) of that section shall be treated as if at the end there were added the words “or section 254 of the Criminal Justice Act 2003”.

## **Transitional arrangements for recall after release**

**23.**—(1) Subject to sub-paragraphs (2) and (3), in relation to a prisoner who falls to be released under the provisions of Part 2 of the 1991 Act after 4<sup>th</sup> April 2005—

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(43) 1968 c. 18.

- (a) the reference to release on licence in section 254(1) of the 2003 Act (recall of prisoners while on licence) shall be taken to include release on licence under those provisions; and
- (b) the reference in sections 37(1) and 44(3) and (4) of the 1991 Act to revocation under section 39 of that Act shall be treated as a reference to revocation under section 254 of the 2003 Act.

(2) Paragraph 12(1) and (2) of Schedule 9 to the Crime and Disorder Act 1988 shall continue to apply to the recall of prisoners whose sentence was committed before the commencement of section 103 of that Act.

(3) The repeal of section 39 of the 1991 Act is of no effect in a case in which the Secretary of State has received a request for the recall of an offender from an officer of a local Probation Board before 4<sup>th</sup> April 2005.

### **Fine defaulters and contemnors**

**24.** The coming into force of section 258 of the 2003 Act, and the repeal of section 45 of the 1991 Act (early release of fine defaulters and contemnors) is of no effect in relation to a person committed to prison in the circumstances set out in subsection (1)(a) or (b) of section 258 before 4<sup>th</sup> April 2005.

### **Consecutive or concurrent terms**

**25.** The coming into force of—

- (a) sections 263 and 264 of the 2003 Act (consecutive or concurrent terms);
- (b) paragraphs 4 and 6(b) of Schedule 32 (Criminal Justice Act 1967<sup>(44)</sup>);
- (c) in Schedule 37, the entry relating to section 104(2) of the Criminal Justice Act 1967,

does not affect the date on which the Secretary of State is required to release an offender from a sentence of imprisonment passed in respect of an offence committed before 4<sup>th</sup> April 2005, whether or not that sentence of imprisonment is to run concurrently or consecutively with one passed in respect of an offence committed after that date.

### **Repatriation of Prisoners Act 1984**

**26.** The coming into force of paragraphs 40, 41 and 43 of Schedule 32 to the 2003 Act is of no effect in relation to a prisoner who is the subject of arrangements made under section 1 of the Repatriation of Prisoners Act 1984<sup>(45)</sup>, if the sentence of imprisonment that is to be served under those arrangements is in respect of an offence committed before 4<sup>th</sup> April 2005.

### **Crime (Sentences) Act 1997**

**27.** The coming into force of paragraph 85 of Schedule 32 to the 2003 Act is of no effect in the case of a person who falls under Part 1 of Schedule 1 to the 1997 Act where the remand in custody or sentence of imprisonment referred to in that Part is in respect of an offence committed before 4<sup>th</sup> April 2005.

**28.** The coming into force of paragraph 86 of Schedule 32 to the 2003 Act and the entry in Part 7 of Schedule 37 to that Act relating to Schedule 2 of the 1997 Act does not affect the continuing application of paragraphs 2 and 3 to Schedule 2 to the 1997 Act to persons to whom they applied immediately before 4<sup>th</sup> April 2005.

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<sup>(44)</sup> 1967 c. 80.

<sup>(45)</sup> 1984 c. 47.

### **Powers of Criminal Courts (Sentencing) Act 2000**

**29.** The coming into force of paragraph 116 of Schedule 32 to the 2003 Act and the repeal of sections 6(4)(d), 116 and 117 of the Sentencing Act is of no effect in relation to a person in a case in which the sentence of imprisonment referred to in section 116(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000—

- (a) is imposed in respect of an offence committed before 4<sup>th</sup> April 2005; or
- (b) is for a term of less than twelve months.

**30.** The coming into force of the repeal of section 84 of the Sentencing Act is of no effect in a case in which the sentence of imprisonment referred to in that section was imposed in respect of an offence committed before 4<sup>th</sup> April 2005.

### **The Criminal Justice and Court Services Act 2000**

**31.** The commencement of paragraph 136(2) of Schedule 32 to the 2003 Act is of no effect in relation to a person released under section 34A of the 1991 Act, whether or not that release takes place after 4<sup>th</sup> April 2005.

### **The International Criminal Court Act 2001**

**32.** The commencement of paragraph 139 of Schedule 32 to the 2003 Act is of no effect in the case of a prisoner on whom a sentence of imprisonment has been imposed in relation to an offence committed before 4<sup>th</sup> April 2005, and to whom the provisions mentioned in paragraph 2(1)(d) and 3(1) of Schedule 7 to the International Criminal Court Act 2001<sup>(46)</sup> would have applied if that sentence had been imposed by a court in England and Wales.

### **Persons liable to removal from the United Kingdom**

**33.** The coming into force of section 260 of the 2003 Act, and the repeal of sections 46 to 46B of the 1991 Act, is of no effect in relation to a prisoner liable to removal from the United Kingdom, if the requisite custodial period referred to in section 260(1) relates to a sentence of imprisonment imposed in respect of an offence committed before 4<sup>th</sup> April 2005.

### **Saving for service prisoners**

**34.** The coming into force of the entry in Part 7 of Schedule 37 to the 2003 Act relating to the 1991 Act is of no effect in relation to a prisoner whose sentence of imprisonment is imposed by a service court<sup>(47)</sup>.

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<sup>(46)</sup> 2001 c. 17.

<sup>(47)</sup> “Service court” is defined by section 305 of the Sentencing Act.

**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) set out in Schedule 1 on 4<sup>th</sup> April 2005, those referred to in article 3 on 18<sup>th</sup> April 2005, and those referred to in article 2(2) and 4 on 4<sup>th</sup> April 2007. Commencement in the case of the provisions falling under article 4 and Schedule 1 is subject to the saving and transitional provisions contained in Schedule 2 to the Order.

**NOTE AS TO EARLIER COMMENCEMENT ORDERS***(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
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 and 19 to 21 (bail)	5.4.2004	2004/829
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	2004/81
	3.7.2004	2004/1629
Section 40 (code of practice for police interviews of witnesses notified by accused)	5.4.2004	2004/829

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
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
Section 73 (rules of court)	29.1.2004	2004/81
Section 93 (rules of court)	29.1.2004	2004/81
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
Section 132 (rules of court)	29.1.2004	2004/81
Section 139 to 141 (use of documents to refresh memory)	5.4.2004	2004/829
Sections 167, 168 (partially) and 169 to 173 (sentencing and allocation guidelines)	27.2.2004	2004/81
Sections 158 (partially) and 159 (partially)	7.3.2005	2005/373
Section 174 (duty to give reasons for, and explain effect of, sentence) (partially)	5.4.2004	2004/829
Section 176 (interpretation of Chapter 1)	5.4.2004	2004/829
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) (partially)	26.1.2004	2003/3282
Sections 195 to 205, 213 to 219 and Schedule 14, and sections 221 to 223 (further provisions about orders under Chapters 2 and 3) (partially, save in relation to 197(3)&(4), 202(3)(b), 215(3), 217(3), 222 & 223)	26.1.2004 7.3.2005	2003/3282 2005/373
Sections 237, 239 and Schedule 19, 240(4)(a) 241, 244 to 246, 248 to 257, 259,	26.1.2004 7.3.2005	2003/3282 2005/373

*Status: This is the original version (as it was originally made).*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
263 to 265, 267 and 268 (release on licence) (partially, save in relation to 240(4)(a) and 267)		
Section 262 and Schedule 20 (prisoners liable to removal from the United Kingdom: modifications of Criminal Justice Act 1991)	14.6.2004	<a href="#">2004/829</a>
Section 279 and Schedule 24 (drug treatment and testing requirement in action plan order or supervision order) (partially)	1.12.2004	<a href="#">2004/3033</a>
Section 284 and Schedule 28 (increase in penalties for drug- related offences)	29.1.2004	<a href="#">2004/81</a>
Section 285 (increase in penalties for certain driving- related offences)	27.2.2004	<a href="#">2004/81</a>
Section 286 (increase in penalties for offences under section 174 of the Road Traffic Act 1988)	29.1.2004	<a href="#">2004/81</a>
Sections 287 to 293 (firearms offences) and Schedule 29 (sentencing for firearms offences in Northern Ireland)	22.1.2004	<a href="#">2004/81</a>
Sections 294 to 297 (offenders transferred to mental hospital)	20.1.2004	<a href="#">2004/81</a>
Section 299 and Schedule 30 (disqualification from working with children)	1.5.2004	<a href="#">2004/829</a>
Section 300 and Schedule 31 (default orders) (partially)	7.3.2005	<a href="#">2005/373</a>
Section 301 (fine defaulters: driving disqualification) (partially)	7.3.2005	<a href="#">2005/373</a>
Section 302 (execution of process between England and Wales and Scotland) (partially)	26.1.2004	<a href="#">2003/3282</a>
Section 304 and Schedule 32 (amendments relating to sentencing) (partially)	26.1.2004	<a href="#">2003/3282</a>
	22.1.2004	<a href="#">2004/81</a>



<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 305 (interpretation of Part 12) (partially)	26.1.2004	<a href="#">2003/3282</a>
Section 306 (detention of suspected terrorists)	20.1.2004	<a href="#">2004/81</a>
Sections 313 and 314 (extension of investigations by Criminal Cases Review Commission in England and Wales and Northern Ireland)	1.9.2004	<a href="#">2004/1629</a>
Sections 316 and 317 (power to substitute conviction of alternative offence on appeal in England and Wales and Northern Ireland)	1.9.2004	<a href="#">2004/1629</a>
Section 318 (substitution of conviction on different charge on appeal from court-martial)	1.9.2004	<a href="#">2004/1629</a>
Section 320 (offence of outraging public decency triable either way)	20.1.2004	<a href="#">2004/81</a>
Section 321 and Schedule 33 (jury service)	5.4.2004	<a href="#">2004/829</a>
Sections 322 and 323 (individual support orders)	1.5.2004	<a href="#">2004/829</a>
Section 324 and Schedule 34 (parenting orders and referral orders)	27.2.2004	<a href="#">2004/81</a>
Sections 325 to 327 (arrangements for assessing etc risks posed by sexual or violent offenders)	5.4.2004	<a href="#">2004/829</a>
Section 328 and Schedule 35 (criminal record certificates: amendments of Part 5 of the Police Act 1997) (partially)	29.1.2004	<a href="#">2004/81</a>
Section 329 (civil proceedings brought by offenders)	20.1.2004	<a href="#">2004/81</a>
Section 331 and Schedule 36 (further minor and consequential amendments) (partially)	5.4.2004	<a href="#">2004/829</a>
	1.9.2004	<a href="#">2004/1629</a>
	15.12.2004	<a href="#">2004/3033</a>
	1.1.2005	

**Status:** This is the original version (as it was originally made).

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 332 and Schedule 37 (repeals) (partially)	20.1.2004, 29.1.2004, 27.2.2004	<a href="#">2004/81</a>
		<a href="#">2004/829</a>
	5.4.2004, 15.12.2004	<a href="#">2004/3033</a>
		<a href="#">2004/81</a>
Section 333 and Schedule 38 (supplementary and consequential provision, etc.) (partially)	27.2.2004	<a href="#">2004/81</a>