Draft Order laid before Parliament under section 330(5)(b) of the Criminal Justice Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No. (C.)

CRIMINAL LAW, ENGLAND AND WALES
CRIMINAL LAW, NORTHERN IRELAND

The Criminal Justice Act 2003 (Commencement No.12 and Transitory Provisions) Order 2005

Made - - - - 2005

The Secretary of State makes the following Order in exercise of the powers conferred upon him by sections 333(1) and (2)(a), and 336(3) of the Criminal Justice Act 2003(**1**);

In accordance with section 330(5)(b) of that Act a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament:

1.—(1) This Order may be cited as the Criminal Justice Act 2003 (Commencement No.12 and Transitory Provisions) Order 2005.

(2) In this Order the "2003 Act" means the Criminal Justice Act 2003.

2.—(1) Subject to article 3, the provisions of the 2003 Act specified in paragraph (2) shall come into force on 1st January 2006.

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

(a) section 43 (applications by prosecution for certain fraud cases to be conducted without a jury);

(b) section 45 (procedure for applications under sections 43 and 44), in so far as it applies to applications under section 43;

(c) section 48 (further provision about trials without a jury), in so far as it applies to orders under section 43;

(d) section 50 (application of Part 7 to Northern Ireland), in so far as it applies to applications and orders under section 43; and

(e) in Schedule 36 (further minor and consequential amendments), Part 4.

(**1**) 2003 c.44.

3.—(1) Until the coming into force of paragraph 18 of Schedule 3 to the 2003 Act(**2**) section 43 (1)(b) of the 2003 Act shall have effect with the modification specified in paragraph (2).

(2) The modification referred to in paragraph (1) is that section 43(1)(b) is to have effect as if there were substituted -

"(b) on or after 1st January 2006 -

(i) the defendant or defendants have been sent for trial under section 51 of the Crime and Disorder Act 1998(**3**) and the evidence of the offence or offences charged reveals a case of serious or complex fraud,

(ii) a notice of transfer has been given under section 4 of the Criminal Justice Act 1987(**4**) in respect of that offence or offences, or

(iii) a notice of transfer has been given under article 3 of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988(**5**) in respect of that offence or offences."

Home Office
2005

Parliamentary Under-Secretary of State

(**2**) Paragraph 18 of Schedule 3 to the Criminal Justice Act 2003 inserts into the Crime and Disorder Act 1998 a new section 51B (notices in serious or complex fraud cases).
(**3**) 1998 c.37.
(**4**) 1987 c.38.
(**5**) S.I. 1988/1846 (N.I.16).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st January 2006 sections 43, 45, 48 and 50 of the Criminal Justice Act 2003 ("the 2003 Act") that provide for applications by the prosecution for certain fraud cases to be conducted without a jury, subject to the transitory provisions contained in article 3.

Section 43 of the 2003 Act is to apply where a notice has been given under section 51B of the Crime and Disorder Act 1998 ("the 1998 Act"). Section 51B is an amendment to the 1998 Act made by Schedule 3 to the 2003 Act, but is not yet in force. Article 3 of this Order modifies section 43(1)(b) to provide that prior to the commencement of section 51B section 43 shall apply in three comparable circumstances. The first is where on or after 1st January 2006 the defendant has been sent for trial under section 51 of the 1998 Act and the evidence against him reveals a case of serious or complex fraud. The second and third are where on or after 1st January 2006 a notice of transfer has been given under section 4 of the Criminal Justice Act 1987 or article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988, both of which involve a determination by the relevant prosecuting authority that the case is one of fraud of such seriousness or complexity that it is appropriate for its management to be taken over by the Crown Court.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Provision	*Date of Commencement*	*S.I.No.*
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, 18, 19 to 21 (bail)	5.4.2004 4.4.2005	2004/829 2005/950
Sections 22 to 24 (conditional cautions)	3.7.2004	2004/1629
Section 25 (conditional cautions, code of practice)	29.1.2004	2004/81

Provision	*Date of Commencement*	*S.I.No.*
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 3.7.2004	2004/81 2004/1629
Sections 32, 33(2), 36 to 38 and 39 (disclosure) (partially)	4.4.2005 15.7.2005	2005/950 2005/1817
Section 40 (code of practice for police interviews of witnesses notified by accused)	5.4.2004	2004/829
Section 41 (allocation of offences triable either way) (partially) and Schedule 3 (partially)	4.4.2005 9.5.2005	2005/950 2005/1267
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
Sections 57 to 61, 67 to 74 (prosecution appeals)	29.1.2004 4.4.2005	2004/81 2005/950
Sections 75 to 96 and Schedule 5 (retrial for serious offences)	29.1.2004 4.4.2005, 18.4.2005	2004/81 2005/950
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
Sections 114 to 136 (hearsay evidence)and Schedule 7 (hearsay evidence:armed forces)	29.1.2004 4.4.2005	2004/81 2005/950
Section 139 to 141 (use of documents to refresh memory)	5.4.2004	2004/829
Sections 142 to 150, 152, 153, 156 to 160; 162 to 166.	7.3.2005 4.4.2005	2005/373 2005/950
Sections 167 and 168 (partially) and 169 to 173	27.2.2004	2004/829