
STATUTORY INSTRUMENTS

2012 No. 1320 (C. 48)

CRIMINAL LAW

**The Criminal Justice Act 2003 (Commencement
No. 28 and Saving Provisions) Order 2012**

Made - - - - *17th May 2012*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 330(4) and 336(3) and (4) of the Criminal Justice Act 2003⁽¹⁾:

Citation, extent and interpretation

1.—(1) This Order may be cited as the Criminal Justice Act 2003 (Commencement No. 28 and Saving Provisions) Order 2012.

(2) This Order does not extend to Northern Ireland.

(3) In this Order—

“the 1980 Act” means the Magistrates’ Courts Act 1980⁽²⁾;

“the 1996 Act” means the Criminal Procedure and Investigations Act 1996⁽³⁾;

“the 1998 Act” means the Crime and Disorder Act 1998⁽⁴⁾;

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

Provisions coming into force on the day after the day on which this Order is made

2. The following provisions of the 2003 Act come into force on the day after the day on which this Order is made—

(a) section 41 (allocation of offences triable either way, and sending cases to Crown Court), so far as it relates to the provisions specified in sub-paragraph (b);

(b) in Schedule 3 (allocation of cases triable either way, and sending cases to the Crown Court etc)—

(i) paragraph 15 (amendments to the 1998 Act);

(ii) paragraph 20(1) and (2) (regulations relating to service of prosecution evidence where persons are sent for trial).

(1) 2003 c. 44.
(2) 1980 c. 43.
(3) 1996 c. 25.
(4) 1998 c. 37.

Provisions coming into force on 18th June 2012

3. The following provisions of the 2003 Act come into force on 18th June 2012—
- (a) section 41, so far as it relates to the provisions specified in sub-paragraph (d);
 - (b) section 331 (further minor and consequential amendments), so far as it relates to paragraph 4 of Schedule 36 to the 2003 Act (minor and consequential amendments relating to bail);
 - (c) section 332 (repeals), so far as it relates to the provisions specified in sub-paragraph (f);
 - (d) in Schedule 3—
 - (i) paragraph 1 (amendments to the 1980 Act);
 - (ii) paragraph 14 (repealing restriction on justices sitting after dealing with bail);
 - (iii) paragraph 19(1) and (2)(a) (restrictions on reporting of allocation or sending proceedings), except so far as paragraph 19(1) would insert section 52B(4) of the 1998 Act;
 - (iv) paragraph 53 (reports of proceedings which are to be treated as published contemporaneously);
 - (e) in Schedule 36, paragraph 4;
 - (f) in Schedule 37 (repeals)—
 - (i) in Part 2, the entry relating to the Senior Courts Act 1981⁽⁵⁾;
 - (ii) in Part 4, the entry relating to section 42 of the 1980 Act.

Provisions coming into force on 18th June 2012 in certain local justice areas and the Crown Court for certain purposes

- 4.—(1) The following provisions of the 2003 Act come into force on 18th June 2012 in relation to the relevant local justice areas—
- (a) section 41, so far as it relates to the provisions specified in sub-paragraph (c);
 - (b) section 332, so far as it relates to the provisions specified in sub-paragraph (d);
 - (c) Schedule 3⁽⁶⁾, so far as it is not already in force, other than—
 - (i) paragraph 19(1), so far as it would insert section 52B(4) of the 1998 Act;
 - (ii) paragraph 19(2)(b);
 - (iii) paragraph 57(2) (amendment of section 7A of the Prosecution of Offences Act 1985⁽⁷⁾);
 - (iv) paragraph 66(4), so far as it would omit paragraph (a) of the modified section 3(8) of the 1996 Act (initial duty of prosecutor to disclose);
 - (v) paragraphs 70 and 71(d) (extending to Northern Ireland reporting restrictions for applications for dismissal);

(5) 1981 c. 54.

(6) Schedule 3 to the Criminal Justice Act 2003 (c. 44) was amended by the Constitutional Reform Act 2005 (c. 4), section 59(5) and Schedule 11, paragraph 1(2), the Armed Forces Act 2006 (c. 52), section 378(2) and Schedule 17, and the Criminal Justice and Immigration Act 2008 (c. 4), sections 53 and 149 and Schedules 13 and 28. Provisions substituted or inserted by Schedule 3 to the Criminal Justice Act 2003 have also been amended: section 19 of the Magistrates' Courts Act 1980 (c. 43) is amended by the Armed Forces Act 2006, section 378(1) and Schedule 16, paragraph 88 and the Coroners and Justice Act 2009 (c. 25), section 177(1) and Schedule 21, paragraph 80; section 51A of the Crime and Disorder Act 1998 (c. 37) is amended by the Violent Crime Reduction Act 2006 (c. 38), sections 49 and 65 and Schedule 1, paragraph 5 and Schedule 5; section 51B of the Crime and Disorder Act 1998 is amended by the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(6) and Schedule 4, paragraph 69; paragraph 9 of Schedule 3 to the Crime and Disorder Act 1998 is amended by the Armed Forces Act 2006, section 378(1) and Schedule 16, paragraph 155 and the Coroners and Justice Act 2009, section 177(1) and Schedule 21, paragraph 81.

(7) 1985 c. 23.

(d) Part 4 of Schedule 37(8), so far as it is not already in force, other than the entry relating to paragraph (a) of the modified section 3(8) of the 1996 Act.

(2) The relevant local justice areas are: Bath and Wansdyke; Berkshire; Bristol; Liverpool and Knowsley; North Avon; North Hampshire; North Somerset; Ormskirk; Sefton; St Helens; Wigan and Leigh; and Wirral.

(3) The provisions specified in paragraph (1) are also to come into force on 18th June 2012 in relation to the Crown Court where it deals with—

- (a) a person sent for trial by a magistrates' court in a relevant local justice area;
- (b) a person committed for sentence by a magistrates' court in a relevant local justice area.

Saving provisions relating to article 4

5.—(1) The amendments coming into force by virtue of article 4 are to have no effect in relation to an offence (“the relevant offence”) if condition 1 or 2 is satisfied in respect of that offence.

(2) Condition 1 is satisfied if a person first appeared in respect of the relevant offence before 18th June 2012.

(3) Condition 2 is satisfied if—

- (a) a person first appears in respect of the relevant offence on or after 18th June 2012,
- (b) the relevant offence is related to an offence which is triable only on indictment (“the indictable-only offence”), and
- (c) the person who is charged with the indictable-only offence first appeared in respect of that offence before 18th June 2012.

(4) For the purposes of this article—

- (a) a person (“A”) first appears in respect of an offence where A appears or is brought before a magistrates' court for the first time in the proceedings in respect of the offence with which A is charged;
- (b) a relevant offence is related to an indictable-only offence if, were a magistrates' court to apply section 51 of the 1998 Act as it was in force immediately before 18th June 2012, that court would be required to send the person charged with the relevant offence to the Crown Court for trial for that offence, or could do so.

Other saving provisions

6.—(1) The amendments to paragraph 1 of Schedule 3 to the 1998 Act (regulations)(9), coming into force by virtue of article 2, do not affect the power to make regulations under that paragraph in relation to a person sent for trial under section 51 of the 1998 Act before the substitution of that section made by the 2003 Act is fully in force in relation to the whole of England and Wales.

(2) The amendment substituting section 4(3)(b) of the Contempt of Court Act 1981(10), coming into force by virtue of article 3(d)(iv), is to have no effect in the case of a report of committal proceedings.

(8) Part 4 of Schedule 37 was amended by the Criminal Justice and Immigration Act 2008 (c. 4), sections 148(1) and 149 and Schedule 26, paragraphs 59 and 77 and Schedule 28.

(9) Paragraph 1 of Schedule 3 was amended by the Access to Justice Act 1999 (c. 22), sections 67(1) and 106 and Schedule 15.

(10) 1981 c. 49.

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Signed by the authority of the Secretary of State

17th May 2012

Crispin Blunt
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Criminal Justice Act 2003 (c. 44) (“the 2003 Act”).

Article 2 brings into force provisions of the 2003 Act on the day after the day on which the Order is made. These provisions relate to the Attorney General’s power to make regulations under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (c. 37) (“the 1998 Act”) on the service of prosecution evidence where persons are sent for trial.

Article 3 brings into force provisions of the 2003 Act on 18th June 2012. These provisions—

- repeal the restriction on justices of the peace sitting after dealing with bail (see paragraph 14 of Schedule 3 to the 2003 Act);
- set out reporting restrictions concerning allocation or sending proceedings (see paragraphs 19 and 53 of Schedule 3 to the 2003 Act);
- make minor and consequential amendments relating to bail (see paragraph 4 of Schedule 36 to the 2003 Act).

Article 4 brings into force most of the remaining paragraphs in Schedule 3 to the 2003 Act on 18th June 2012 in relation to certain local justice areas and the Crown Court for certain purposes. These paragraphs in particular—

- amend the provisions by which a magistrates’ court decides on the mode of trial for adults charged with an offence which is triable either on indictment or summarily (“either-way offences”) (paragraphs 5 to 8);
- modify the provisions by which children and young persons are ordinarily tried summarily for an offence which is triable on indictment, subject to certain exceptions (paragraph 9);
- introduce provisions by which children and young persons may indicate intention as to plea in certain cases (paragraph 10);
- substitute for the provisions in the 1998 Act which deal with the sending to the Crown Court of adults charged with offences triable only on indictment (“indictable-only offences”) and certain related offences, new provisions which permit sending to the Crown Court in a wider range of circumstances, including either-way offences (which generally, at present, reach the Crown Court by way of committal proceedings), certain offences involving children and young persons and certain cases involving serious or complex fraud or which involve children as witnesses (paragraph 18);
- make amendments which concern magistrates’ courts’ powers to commit for sentence on summary trial of either-way offences (paragraphs 21 to 28);
- make minor and consequential amendments, including repealing the provisions in the Magistrates’ Courts Act 1980 (c. 43) relating to committal proceedings for either-way offences (paragraph 51).

Article 5 contains saving provisions concerning the provisions brought into force by article 4. The saving provisions provide rules for circumstances in which a person appears or is brought before a magistrates’ court when he or she had a first appearance concerning that offence before commencement or where someone first appeared on a related indictable-only offence before commencement.

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Article 6 contains other saving provisions. These relate to the Attorney General's power to make regulations relating to the service of prosecution evidence and to preserve the effect of section 4(3) (b) of the Contempt of Court Act 1981 (c. 49), as it was in force before commencement, where this is still needed for reports of committal proceedings.

A regulatory impact assessment has not been prepared for this Order as no impact on the private or voluntary sectors is foreseen.

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 and 2	20.1.2004	2004/81
Section 3	29.1.2004	2004/82
Section 4	20.1.2004	2004/81
Section 5 (partially)	1.8.2004	2004/1867
Section 5 so far as not already in force	1.12.2005	2005/3055
Sections 6 to 8	20.1.2004	2004/81
Section 9	5.4.2004	2004/829
Section 10	5.4.2004	2004/829
Section 13	5.4.2004	2004/829
Section 14 (partially)	1.1.2007	2006/3217
Section 15 (partially)	5.4.2004	2004/829
	1.1.2007	2006/3217
Sections 16 and 17	5.4.2004	2004/829
Section 18	4.4.2005	2005/950
Sections 19 to 21	5.4.2004	2004/829
Sections 22 to 24	3.7.2004	2004/1629
Section 25	29.1.2004	2004/81
Sections 26 and 27 (partially)	3.7.2004	2004/1629
Section 27 so far as not already in force	15.10.2009	2009/2775
Section 28	29.1.2004	2004/81
	3.7.2004	2004/1629
	1.10.2007	2007/2874
Sections 29 and 30 (partially)	25.7.2007	2007/1999
	9.6.2008	2008/1424
	1.11.2009	2009/2879

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
	1.1.2011	2010/3005
	6.9.11	2011/2188
	3.9.11	2011/2188
	19.3.12	2012/825
Section 31	29.1.2004	2004/81
Section 32 (partially)	4.4.2005	2005/950
	15.7.2005	2005/1817
Section 33 (partially)	4.4.2005	2005/950
	24.7.2006	2006/1835
	15.7.2005	2005/1817
Section 34	1.5.2010	2010/1183
Sections 36 to 38 and 39 (partially)	4.4.2005	2005/950
	15.7.2005	2005/1817
	1.5.2010	2010/1183
Section 40	5.4.2004	2004/829
Section 41 (partially)	4.4.2005	2005/950
	9.5.2005	2005/1267
Section 42	22.1.2004	2004/81
Sections 44, 45, 46, 47 and 48 (partially)	24.7.2006	2006/1835
Section 49	29.1.2004	2004/81
Section 50 (partially)	8.1.2007	2006/3422
Sections 51 to 54	7.12.2007	2007/3451
	26.4.2010	2010/1183
Section 55	29.1.2004	2004/81
	26.4.2010	2010/1183
Section 56	7.12.2007	2007/3451
Sections 57 to 61 and 67 to 72	4.4.2005	2005/950
Section 73	29.1.2004	2004/81
Sections 74 to 92	4.4.2005	2005/950
Section 93	29.1.2004	2004/81
Sections 94 and 95	4.4.2005	2005/950

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 97	7.3.2005	2005/373
Sections 98 to 110	15.12.2004	2004/3033
Section 111	29.1.04	2004/81
Section 112	15.12.2004	2004/3033
Section 113	1.1.2005	2004/3033
Sections 114 to 131 and 133 to 136	4.4.2005	2005/950
Sections 139 to 141	5.4.2004	2004/829
Sections 142 to 150, 152, 153 and 156 to 157	4.4.2005	2005/950
Sections 158 and 159 (partially)	7.3.2005	2005/373
Sections 158 to 159 so far as not already in force, 160 and 162 to 166	4.4.2005	2005/950
Sections 167 and 168 (partially) and 169 to 173	27.2.2004	2004/81
Section 174 (partially)	5.4.2004	2004/829
Section 174 so far as not already in force	4.4.2005	2005/950
Section 175	4.4.2005	2005/950
Section 176	5.4.2004	2004/829
Section 177	4.4.2005	2005/950
Section 178	7.3.2005	2005/373
Sections 179 and 180	4.4.2005	2005/950
Sections 182 to 187	26.1.2004	2003/3282
Sections 189 to 194	4.4.2005	2005/950
Section 195 (partially)	26.1.2004	2003/3282
Section 195 so far as not already in force	4.4.2005	2005/950
Section 196 (partially)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 197 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373
Section 197 so far as not already in force	4.4.2005	2005/950
Sections 198 to 199 (partially)	26.1.2004	2003/3282
Sections 198 to 199 so far as not already in force	4.4.2005	2005/950
Section 200 (partially)	26.1.2004	2003/3282
Section 200 so far as not already in force	4.4.2005	2005/950
Section 201 (partially)	26.1.2004	2003/3282

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 201 so far as not already in force	4.4.2005	2005/950
Section 202 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373
Section 202 so far as not already in force	4.4.2005	2005/950
Section 203 (partially)	26.1.2004	2003/3282
Section 203 so far as not already in force	4.4.2005	2005/950
Section 204 (partially)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 205 (partially)	26.1.2004	2003/3282
Section 205 so far as not already in force	4.4.2005	2005/950
Section 213 (partially)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 214 (partially)	26.1.2004	2003/3282
Section 214 so far as not already in force	4.4.2005	2005/950
Section 215	26.1.2004	2003/3282
	7.3.2005	2005/373
	4.4.2005	2005/950
Section 216 (partially)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 217	26.1.2004	2003/3282
	7.3.2005	2005/373
	4.4.2005	2005/950
Section 218 (partially)	26.1.2004	2003/3282
Section 219 (partially)	26.1.2004	2003/3282
Section 221 (partially)	26.1.2004	2003/3282
Section 221 so far as not already in force	4.4.2005	2005/950
Section 222 (partially)	26.1.2004	2003/3282
Section 222 so far as not already in force	7.3.2005	2005/373
Section 223 (partially)	26.1.2004	2003/3282
Section 223 so far as not already in force	7.3.2005	2005/373
Sections 224 to 236	4.4.2005	2005/950
Section 237 (partially)	26.1.2004	2003/3282

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 237 so far as not already in force	4.4.2005	2005/950
Section 238	4.4.2005	2005/950
Section 239 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373
Section 240 (partially)	7.3.2005	2005/373
Section 240 so far as not already in force	4.4.2005	2005/950
Section 241 (partially)	26.1.2004	2003/3282
Section 241 so far as not already in force	4.4.2005	2005/950
Sections 242 to 243	4.4.2005	2005/950
Section 244 (partially)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 245 (partially)	26.1.2004	2003/3282
Section 246 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373
	4.4.2005	2005/950
Section 247	4.4.2005	2005/950
Section 248 (partially)	26.1.2004	2003/3282
Section 248 so far as not already in force	4.4.2005	2005/950
Section 249 (partially)	26.1.2004	2003/3282
Section 249 so far as not already in force	4.4.2005	2005/950
Section 250 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373
	4.4.2005	2005/950
Sections 251 to 252 (partially)	26.1.2004	2003/3282
Section 252 so far as not already in force	4.4.2005	2005/950
Section 253 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373
Sections 254 to 256 (partially)	26.1.2004	2003/3282
Sections 254 to 256 so far as not already in force	4.4.2005	2005/950
Section 257 (partially)	26.1.2004	2003/3282
	7.3.2005	2005/373

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 257 so far as not already in force	4.4.2005	2005/950
Section 259 (partially)	26.1.2004	2003/3282
Section 259 so far as not already in force	4.4.2005	2005/950
Section 260 (partially)	7.3.2005	2005/373
Section 260 so far as not already in force	4.4.2005	2005/950
Section 261	4.4.2005	2005/950
Section 262	14.6.2004	2004/829
Section 263 (partially)	26.1.2004	2003/3282
Section 263 so far as not already in force	4.4.2005	2005/950
Section 264 (partially)	26.1.2004	2003/3282
	4.4.2005	2005/950
Section 265 (partially)	26.1.2004	2003/3282
Section 265 so far as not already in force	4.4.2005	2005/950
Section 267	7.3.2005	2005/373
Section 268 (partially)	26.1.2004	2003/3282
Section 268 so far as not already in force	4.4.2005	2005/950
Section 278	4.4.2005	2005/950
Section 279	1.12.2004	2004/3033
Section 284	29.1.2004	2004/81
Section 285	27.2.2004	2004/81
Section 286	29.1.2004	2004/81
Sections 287 to 293	22.1.2004	2004/81
Sections 294 to 297	20.1.2004	2004/81
Section 299	1.5.2004	2004/829
Section 300	7.3.2005	2005/373
Section 301	7.3.2005	2005/373
Section 302 (partially)	26.1.2004	2003/3282
Section 302 so far as not already in force	4.4.2005	2005/950
Section 303 (partially)	4.4.2005	2005/950
Section 304 (partially)	26.1.2004	2003/3282
	22.1.2004	2004/81
	4.4.2005	2005/950
Section 305 (partially)	26.1.2004	2003/3282

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 305 so far as not already in force	4.4.2005	2005/950
Section 306	20.1.2004	2004/81
Section 307	21.7.2005	2005/1817
Sections 308 to 312	4.4.2005	2005/950
Sections 313 and 314	1.9.2004	2004/1629
Section 315	4.4.2005	2005/950
Sections 316 and 317	1.9.2004	2004/1629
Section 318	1.9.2004	2004/1629
Section 319	4.4.2005	2005/950
Section 320	20.1.2004	2004/81
Section 321	5.4.2004	2004/829
Sections 322 and 323	1.5.2004	2004/829
Section 324	27.2.2004	2004/81
Sections 325 to 327	5.4.2004	2004/829
Section 328	29.1.2004	2004/81
	6.4.2006	2006/751
	1.4.2008	2008/694
Section 329	20.1.2004	2004/81
Section 331 (partially)	5.4.2004	2004/829
	1.9.2004	2004/1629
	15.12.2004	2004/2033
	1.1.2005	2004/2033
	4.4.2005	2005/950
	15.7.2005	2005/1817
	24.7.2006	2006/1835
	8.1.2007	2006/3422
	1.10.2007	2007/2874
Section 332 (partially)	20.1.2004	2004/81
	29.1.2004	2004/81
	27.2.2004	2004/81

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
	5.4.2004	2004/829
	15.12.2004	2004/3033
	4.4.2005	2005/950
	15.7.2005	2005/1817
	6.4.2006	2006/751
Section 333	27.2.2004	2004/81
	4.4.2005	2005/950
Schedule 1	20.1.2004	2004/81
Schedule 2	29.1.2004	2004/81
	3.7.2004	2004/1629
	1.10.2007	2007/2874
Schedule 3 (partially)	4.4.2005	2005/950
	9.5.2005	2005/1267
Schedule 5	4.4.2005	2005/950
Schedule 6	1.1.2005	2004/3033
Schedules 7 to 9	4.4.2005	2005/950
Schedule 10 (partially)	26.1.2004	2003/3282
Schedules 12 and 13	4.4.2005	2005/950
Schedule 14	26.1.2004	2003/3282
Schedules 15 to 18	4.4.2005	2005/950
Schedule 19	26.1.2004	2003/3282
Schedule 20	14.6.2004	2004/829
Schedule 23	4.4.2005	2005/950
Schedule 24	1.12.2004	2004/3033
Schedule 28	29.1.2004	2004/81
Schedule 29	22.1.2004	2004/81
Schedule 30	1.5.2004	2004/829
Schedule 31	7.3.2005	2005/373
Schedule 32 (partially)	26.1.2004	2003/3282
	22.1.2004	2004/81
	4.4.2005	2005/950

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 33	5.4.2004	2004/829
Schedule 34	27.2.2004	2004/81
Schedule 35 (partially)	29.1.2004	2004/81
	6.4.2006	2006/751
	1.4.2008	2008/694
Schedule 36 (partially)	5.4.2004	2004/829
	1.9.2004	2004/1629
	15.12.2004	2004/2033
	1.1.2005	2004/2033
	4.4.2005	2005/950
	15.7.2005	2005/1817
	24.7.2006	2006/1835
	1.1.2007	2006/3217
	8.1.2007	2006/3422
	1.10.2007	2007/2874
Schedule 37 (partially)	20.1.2004	2004/81
	29.1.2004	2004/81
	27.2.2004	2004/81
	5.4.2004	2004/829
	15.12.2004	2004/3033
	4.4.2005	2005/950
	15.7.2005	2005/1817
	6.4.2006	2006/751
Schedule 38	27.2.2004	2004/81
	4.4.2005	2005/950