

# CRIMINAL JUSTICE ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 14 : General**

##### ***Section 330: Orders and rules***

730. This Section provides that where the Act confers power on a Minister to make an order or rules, the power is exercisable by statutory instrument.
731. *Subsection (4)* specifies that this power may also include the power to make transitional and consequential provisions and savings, whenever a provision in the Act is commenced by order under Section 330.
732. *Subsection (5)* lists statutory instruments that are to be subject to affirmative resolution procedure. All other instruments made under powers to which the Section applies, apart from those excluded by *subsection (7)*, are subject to negative resolution procedure. An instrument made under any of the provisions mentioned in subsection (7) is not subject to any parliamentary procedure.

##### ***Section 331: Further minor and consequential amendments***

733. This Section introduces Schedule 36.

##### ***Section 332: Repeals***

734. This Section introduces Schedule 37.

##### ***Section 333: Supplementary and consequential provision etc***

735. This section enables the Secretary of State to make supplementary, incidental or consequential provision, and transitory, transitional or saving provision. An order made under this power will be subject to negative resolution procedure (see section 330(6)), other than where primary legislation is being amended in which case it is subject to the affirmative resolution procedure (see section 330(5)(b)).
736. Where one provision of the Act is brought into force before another, the power includes power to modify the provision brought into force so as to take account of the fact that the other provision is not yet in force. The power also includes a general power to make consequential amendment of other Acts.
737. *Section 333* is different from the power provided in Section 330(4) in that it is exercisable independently of the commencement power in Section 336 and creates in effect a new, free-standing power to make transitional or consequential provisions at any time, including a power to amend primary legislation. It was considered necessary, particularly in respect of the sentencing provisions, to pick up any consequential amendments not identified before the Act's introduction or during its passage; and also to deal with long-term transitional arrangements created by the introduction of a new system which will gradually replace the existing arrangements.

**Section 334: Provisions for Northern Ireland**

738. Subsections (1) to (3) of this section provide that an Order in Council under section 85 of the [Northern Ireland Act 1998 \(c. 47\)](#) (or during direct rule, paragraph 1 of the Schedule to the [Northern Ireland Act 2000 \(c. 1\)](#)), is to be subject to the negative resolution rather than the affirmative resolution procedure if it contains a statement that it is made only for purposes corresponding to those in Part 1, sections 1, 3(3), 4, 7 to 10 and 12 (amendments of Police and Criminal Evidence Act 1984), paragraphs 1, 2, 5 to 10 and 20 of Schedule 1 (amendments related to Part 1), Part 8 (live links), Part 9 (prosecution appeals) and Part 11 (evidence).
739. Section 41(2) of the [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#) provides that once a local Attorney General for Northern Ireland has been appointed under section 22(2) of that Act the functions of the Attorney General for Northern Ireland to consent to prosecutions shall transfer to the Director of Public Prosecutions for Northern Ireland (subject to certain exceptions in Schedule 7 of that Act). Subsection (4) ensures that any function of the Attorney General for Northern Ireland of consenting to the institution of criminal proceedings conferred by an amendment made by the Act will be included in the transfer of functions provided for in section 41(2).
740. Subsection (5) provides that any reference in the [Access to Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435 \(N.I. 10\)\)](#) to any provision in the [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47\)](#) is to be read as a reference to the provision, as amended by the Act.

**Section 336: Commencement**

741. The provisions listed in subsection (1) came into force (i.e. on 20<sup>th</sup> November 2003) on Royal Assent (i.e. on 18<sup>th</sup> December 2003). The life sentence provisions listed in subsection (2) come into force 4 weeks later. The remaining provisions in the Act will be brought into force by order. A commencement order may make different provision for different purposes or different areas.

**Section 337: Extent**

742. This section provides that in general the Act extends to England and Wales only, subject to the exceptions mentioned.

**Section 338: Channel Islands and Isle of Man**

743. This section enables the provisions of the Act to be extended to the Channel Islands and Isle of Man, with modifications as necessary, by Order in Council