

**2005 No. 3055 (C. 130 )**

**CRIMINAL LAW, ENGLAND AND WALES**

**POLICE, ENGLAND AND WALES**

**The Criminal Justice Act 2003 (Commencement No. 11) Order  
2005**

*Made* - - - -

*1st November 2005*

The Secretary of State makes the following Order in exercise of the powers conferred by section 336(3) of the Criminal Justice Act 2003<sup>(a)</sup>:

1. This Order may be cited as the Criminal Justice Act 2003 (Commencement No. 11) Order 2005.

2. Section 5 of the Criminal Justice Act 2003 (drug testing for under-eighteens) shall come into force on 1st December 2005 to the extent not already in force.

Home Office  
1st November 2005

*Paul Goggins*  
Parliamentary Under-Secretary of State

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<sup>(a)</sup> 2003 c. 44.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings section 5 (drug testing for under-eighteens) of the Criminal Justice Act 2003 (“the 2003 Act”) into force on 1st December 2005 to the extent to which it is not already in force. Section 5 of the 2003 Act amends section 38 and section 63B of the Police and Criminal Evidence Act 1984 (“PACE”) (c. 60). Section 5(3)(d) of the 2003 Act provides that the amendments made by section 5 to section 63B of PACE apply only where the relevant chief officer has been notified by the Secretary of State that arrangements for the taking of samples under this section from persons who have not attained the age of 18 have been made for the police area as a whole, or for the particular police station, in which the person is in police detention and the notice has not been withdrawn. Sections 38 and 63B of PACE as amended by section 5 of the 2003 Act will be amended by the Drugs Act 2005 (c. 17).

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Act have been brought into force by commencement orders made before the date of this 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, 18, 19 to 21 (bail)  | 5.4.2004<br>4.4.2005        | 2004/829<br>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               |
| 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<br>3.7.2004       | 2004/81<br>2004/1629  |
| Sections 32, 33(2), 36 to 38 and 39 (disclosure)   | 4.4.2005<br>15.7.2005       | 2005/950<br>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<br>9.5.2005        | 2005/950<br>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               |

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| Sections 57 to 61, 67 to 74 (prosecution appeals)  | 29.1.2004<br>4.4.2005                | 2004/81<br>2005/950               |
| Sections 75 to 96 and Schedule 5 (retrial for serious offences)  | 29.1.2004<br>4.4.2005,<br>18.4.2005  | 2004/81<br>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<br>15.12.2004,<br>1.1.2005 | 2004/81<br>2004/3033              |
| Sections 114 to 136 (hearsay evidence) and Schedule 7 (hearsay evidence: armed forces)   | 29.1.2004<br>4.4.2005                | 2004/81<br>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<br>4.4.2005                 | 2005/373<br>2005/950              |
| Sections 167 and 168 (partially) and 169 to 173 (sentencing and allocation guidelines)   | 27.2.2004                            | 2004/81                           |
| Section 174 (duty to give reasons for, and explain effect of, sentence)  | 5.4.2004<br>4.4.2005                 | 2004/829<br>2005/950              |
| Section 175 (duty to publish information about sentencing)   | 4.4.2005                             | 2005/950                          |
| Section 176 (interpretation of Chapter 1)  | 5.4.2004                             | 2004/829                          |
| Sections 177, 179 and 180 (community orders) and Schedule 8 (breach, revocation or amendment of community order) and Schedule 9 (transfer of community orders to Scotland or Northern Ireland) ( all partially and subsequently all for remaining purposes)  | 4.4.2005<br>4.4.2007                 | 2005/950<br>2005/950              |
| 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) (all partially)  | 26.1.2004                            | 2003/3282                         |
| Sections 189 to 194 (suspended sentences); Schedule 12 (breach or amendment of suspended sentence order, and effect of further conviction) and Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland).  | 4.4.2005                             | 2005/950                          |
| Sections 195, 196 (partially), 197 to 203, 204 (partially), 205 to 212, 213 (partially), 214, 215, 216 (partially), 217 to 220 and Schedule 14, and sections 221 to 223 (further provisions about orders under Chapters 2 and 3).  | 26.1.2004<br>7.3.2005<br>4.4.2005    | 2003/3282<br>2005/373<br>2005/950 |
| Sections 224 to 236 (dangerous offenders); Schedule 15 (specified offences for the purposes of Chapter 5 of Part 12); Schedule 16 (Scottish offences specified for the purposes of section 229(4)); Schedule 17 (Northern Ireland offences specified for the purposes of section 229(4)) and Schedule 18 (release of prisoners serving sentences of imprisonment or detention for public protection) | 4.4.2005                             | 2005/950                          |

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| Sections 237 to 243 ( release on licence: preliminary), 244 (partially) and 245 to 249, 250 to 251 (partially), 252 to 256, 257 (partially), 258 to 261, 263, 264 (partially), 265, 267 to 268 (release on licence) and Schedule 19 (parole board: supplementary provisions) | 26.1.2004<br>7.3.2005<br>4.4.2005  | 2003/3282<br>2005/373<br>2005/950 |
| Section 262 and Schedule 20 (prisoners liable to removal from the United Kingdom: modifications of Criminal Justice Act 1991)  | 14.6.2004                          | 2004/829                          |
| Section 278 and Schedule 23 (deferment of sentence)  | 4.4.2005                           | 2005/950                          |
| Section 279 and Schedule 24 (drug treatment and testing requirement in action plan order or supervision order) (partially)   | 1.12.2004                          | 2004/3033                         |
| Section 284 and Schedule 28 (increase in penalties for drug-related offences)  | 29.1.2004                          | 2004/81                           |
| Section 285 (increase in penalties for certain driving-related offences)   | 27.2.2004                          | 2004/81                           |
| Section 286 (increase in penalties for offences under section 174 of the Road Traffic Act 1988)  | 29.1.2004                          | 2004/81                           |
| Sections 287 to 293 (firearms offences) and Schedule 29 (sentencing for firearms offences in Northern Ireland)   | 22.1.2004                          | 2004/81                           |
| Sections 294 to 297 (offenders transferred to mental hospital)   | 20.1.2004                          | 2004/81                           |
| Section 299 and Schedule 30 (disqualification from working with children)  | 1.5.2004                           | 2004/829                          |
| Section 300 and Schedule 31 (default orders) (partially)   | 7.3.2005                           | 2005/373                          |
| Section 301 (fine defaulters: driving disqualification) (partially)  | 7.3.2005                           | 2005/373                          |
| Section 302 (execution of process between England and Wales and Scotland)  | 26.1.2004<br>4.4.2005              | 2003/3282<br>2005/950             |
| Section 303 (sentencing: repeals) ( partially)   | 4.4.2005                           | 2005/950                          |
| Section 304 and Schedule 32 (amendments relating to sentencing) (partially)  | 26.1.2004<br>22.1.2004<br>4.4.2005 | 2003/3282<br>2004/81<br>2005/950  |
| Section 305 (interpretation of Part 12)  | 26.1.2004<br>4.4.2005              | 2003/3282<br>2005/950             |
| Section 306 (detention of suspected terrorists)  | 20.1.2004                          | 2004/81                           |
| Section 307 (enforcement of regulations)   | 21.7.2005                          | 2005/1817                         |
| Sections 308 to 312 (miscellaneous provisions about criminal proceedings)  | 4.4.2005                           | 2005/950                          |
| Sections 313 and 314 (extension of investigations by Criminal Cases Review Commission in England and Wales and Northern Ireland)   | 1.9.2004                           | 2004/1629                         |
| Section 315 (appeals following reference by the Criminal Cases Review Commission)  | 4.4.2005                           | 2005/950                          |
| Sections 316 and 317 (power to substitute conviction of alternative offence on appeal in England and Wales and Northern Ireland)   | 1.9.2004                           | 2004/1629                         |

|   |            |           |
|---|------------|-----------|
| Section 318 (substitution of conviction on different charge on appeal from court-martial)                           | 1.9.2004   | 2004/1629 |
| Section 319 (appeals against sentence in England and Wales)   | 4.4.2005   | 2005/950  |
| Section 320 (offence of outraging public decency triable either way)  | 20.1.2004  | 2004/81   |
| Section 321 and Schedule 33 (jury service)  | 5.4.2004   | 2004/829  |
| Sections 322 and 323 (individual support orders)  | 1.5.2004   | 2004/829  |
| Section 324 and Schedule 34 (parenting orders and referral orders)  | 27.2.2004  | 2004/81   |
| Sections 325 to 327 (arrangements for assessing etc risks posed by sexual or violent offenders)                     | 5.4.2004   | 2004/829  |
| Section 328 and Schedule 35 (criminal record certificates: amendments of Part 5 of the Police Act 1997) (partially) | 29.1.2004  | 2004/81   |
| Section 329 (civil proceedings brought by offenders)  | 20.1.2004  | 2004/81   |
| Section 331 and Schedule 36 (further minor and consequential amendments) (partially)                                | 5.4.2004   | 2004/829  |
|   | 1.9.2004   | 2004/1629 |
|   | 15.12.2004 | 2004/3033 |
|   | 1.1.2005   |           |
|   | 4.4.2005   | 2005/950  |
|   | 15.7.2005  | 2005/1817 |
| Section 332 and Schedule 37 (repeals) (partially)   | 20.1.2004, | 2004/81   |
|   | 29.1.2004, |           |
|   | 27.2.2004  |           |
|   | 5.4.2004   | 2004/829  |
|   | 15.12.2004 | 2004/3033 |
|   | 4.4.2005   | 2005/950  |
|   | 15.7.2005  | 2005/1817 |
| Section 333 and Schedule 38 (supplementary and consequential provision, etc.) (partially)                           | 27.2.2004  | 2004/81   |
|   | 4.4.2005   | 2005/950  |

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