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STATUTORY INSTRUMENTS

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**2009 No. 616 (C. 42)**

**CRIMINAL LAW**

**The Criminal Justice Act 2003 (Commencement No.8 and  
Transitional and Saving Provisions) (Amendment) Order 2009**

*Made - - - - 9th March 2009*

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

1. This Order may be cited as the Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) (Amendment) Order 2009 and shall come into force on 3 April 2009.
2. In articles 2(2) and 4(1) of the Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005<sup>(2)</sup>, for the words “4<sup>th</sup> April 2009” there shall be substituted the words “4<sup>th</sup> April 2010”.
3. The Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) (Amendment) Order 2007<sup>(3)</sup> is revoked.

Signed by the authority of the Secretary of State

9th March 2009

*David Hanson*  
Minister of State  
Ministry of Justice

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(1) 2003 c.44.  
(2) S.I. 2005/950, amended by SI 2007/391.  
(3) SI 2007/391

## EXPLANATORY NOTE

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

This Order amends the Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 (“the 2005 Order”) by changing the coming into force date of certain provisions from 4<sup>th</sup> April 2009 to 4<sup>th</sup> April 2010. The relevant provisions - sections 177 and 179 to 180 of and Schedule 8 and 9 to the Criminal Justice Act 2003 (community orders) – were implemented in respect of 18 year olds and above from 4<sup>th</sup> April 2005. However, for those aged 16 and 17 year old commencement was deferred until 4 April 2007 and then to 4 April 2009 by [SI 2007/391](#).

It is proposed that, in respect of 16 and 17 year olds, these provisions will be repealed and replaced by provisions contained in Part 1 of the Criminal Justice and Immigration Act 2008 (“the 2008 Act”) and commencement has therefore been further deferred until 4 April 2010 by which time Part 1 of the 2008 Act will have been brought into effect and the provisions in the 2003 Act repealed.

Commencement of related amendments in Schedule 32 to the 2003 Act, referred to in article 4(2) of the 2005 Order, is also deferred until 4 April 2010. Until that time the transitional provisions in paragraphs 7 to 13 of Schedule 2 to the 2005 Order will continue to have effect.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The following provisions of the 2003 Act have been brought into force by commencement order 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	<a href="#">2004/81</a>
Section 3 (arrestable offences)	29.1.2004	<a href="#">2004/81</a>
Section 5 (partially)(drug testing for under-eighteens);	1.8.2004	<a href="#">2004/1867</a>
Section 5 to the extent not already in force	1.12.2005	<a href="#">2005/3055</a>
Section 9 (taking fingerprints without consent)	5.4.2004	<a href="#">2004/829</a>
Section 10 (taking non-intimate samples without consent)	5.4.2004	<a href="#">2004/829</a>
Sections 13, 15(3), 16, 17, 18, 19 to 21 (bail)	5.4.2004	<a href="#">2004/829</a>
	4.4.2005	<a href="#">2005/950</a>
	3.7.2004	<a href="#">2004/1629</a>
Sections 14 (offences committed while on bail) and 15(1) and (2) (failure to surrender by	1.1.2007	<a href="#">2006/3217</a>

persons released on bail) for the purposes only of any offence) (partially) and paragraph 3 of Schedule 36 (minor and consequential).		
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 and	29.1.2004	2004/81
section 31 (charging etc)	3.7.2004	2004/1629
	1.10.2007	2007/284
Sections 29 and 30 (new method of instituting proceedings)(partially)	25.7.2007	2007/1999
	9.6.2008	2008/1424
Sections 32, 33(2), 36 to 38 and 39 (disclosure)	4.4.2005	2005/950
	15.7.2005	2005/1817
Section 33(1) (partially)	24.7.2006	2006/1835
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	2005/950
	9.5.2005	2005/1267
Section 42 (mode of trial for certain firearms offences: transitory arrangements)	22.1.2004	2004/81
Section 44 (jury tampering), 45 (procedure for applications), 46 (discharge of jury because of jury tampering), 47 (appeals), 48 (partially)	24.7.2006	2006/1835
Section 49 (rules of court)	29.1.2004	2004/81
Section 50 (partially)	8.1.2007	2006/3422
Section 55 (rules of court)	9.1.2004	2004/81
Sections 51, 52, 54 and 56 (live links) (partially)	7.12.2007	2007/3451
Sections 57 to 61, 67 to 74 (prosecution appeals)	29.1.2004	2004/81
	4.4.2005	2005/950
Sections 75 to 96 and Schedule 5 (retrial for sexual offences)	29.1.2004	2004/81
	18.4.2005	

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Section 97 (application of Criminal Appeal Acts)	7.3.2005	<a href="#">2005/373</a>
Sections 98 to 113 and Schedule 6 (evidence of bad character)	29.1.2004	<a href="#">2004/81</a>
	15.12.2004	<a href="#">2004/3033</a>
	1.1.2005	
Sections 114 to 136 (hearsay evidence) and Schedule 7 (hearsay evidence: armed forces)	4.4.2005	<a href="#">2005/950</a>
Section 139 to 141 (use of documents to refresh memory)	5.4.2004	<a href="#">2004/829</a>
Sections 142 to 150, 152, 153, 156 to 160; 162 to 166	7.3.2005	<a href="#">2005/373</a>
	4.4.2005	<a href="#">2005/950</a>
Sections 167 and 168 (partially) and 169 to 173 (sentencing and allocation guidelines)	27.2.2004	<a href="#">2004/81</a>
Section 174 (duty to give reasons for, and explain effect of, sentence)	5.4.2004	<a href="#">2004/829</a>
	4.4.2005	<a href="#">2005/950</a>
Section 175 (duty to publish information about sentencing)	4.4.2005	<a href="#">2005/950</a>
Section 176 (interpretation of Chapter 1)	5.4.2004	<a href="#">2004/829</a>
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	<a href="#">2005/950</a>
Section 178 (power to provide for court review of community orders)	7.3.2005	<a href="#">2005/373</a>
Sections 182 to 187 and Schedule 10 (prison sentences of less than 12 months)(all partially)	26.1.2004	<a href="#">2003/3282</a>
Sections 189 to 194 (suspended sentences);	4.4.2005	<a href="#">2005/950</a>
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).		
Sections 195, 196 (partially), 197 to 203, 204	26.1.2004	<a href="#">2003/3282</a>
(partially), 205 to 212, 213 (partially), 214,	7.3.2005	<a href="#">2005/373</a>
215, 216 (partially), 217 to 220 and Schedule 14, and sections 221 to 223 (further	4.4.2005	<a href="#">2005/950</a>

provisions about orders under Chapters 2 and 3).

Sections 224 to 236 (dangerous offenders);	4.4.2005	<a href="#">2005/950</a>
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)		
Sections 237 to 243 (release on licence: preliminary), 244 (partially) and 245 to 249,	26.1.2004	<a href="#">2003/3282</a>
250 to 251 (partially), 252 to 256, 257	7.3.2005	<a href="#">2005/373</a>
(partially), 258 to 261, 263, 264 (partially), 265, 267 to 268 (release on licence) and Schedule 19 (parole board: supplementary provisions)	4.4.2005	<a href="#">2005/950</a>
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 278 and Schedule 23 (deferment of sentence)	4.4.2005	<a href="#">2005/950</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>

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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)	26.1.2004	<a href="#">2003/3282</a>
Section 303 (sentencing: repeals)(partially)	4.4.2005	<a href="#">2005/950</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>
	4.4.2005	<a href="#">2005/950</a>
Section 305 (interpretation of Part 12)	26.1.2004	<a href="#">2003/3282</a>
	4.4.2005	<a href="#">2005/950</a>
Section 306 (detention of suspected terrorists)	20.1.2004	<a href="#">2004/81</a>
Section 307 (enforcement of regulations)	21.7.2005	<a href="#">2005/1817</a>
Sections 308 to 312 (miscellaneous provisions about criminal proceedings)	4.4.2005	<a href="#">2005/950</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>
Section 315 (appeals following reference by the Criminal Cases Review Commission)	4.4.2005	<a href="#">2005/950</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 319 (appeals against sentence in England and Wales)	4.4.2005	<a href="#">2005/950</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	2004/81
	14.3.2006	2006/751
	1.4.2008	2008/694
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Section 329 (civil proceedings brought by offenders)	20.1.2004	2004/81
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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	2005/950
	4.4.2005	2005/1817
	15.7.2005	2006/1835
	24.7.2006	2006/3422
	8.1.2007	2007/2874
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Section 332 and Schedule 37 (repeals) (partially)	20.1.2004	2004/81
	29.1.2004	2004/829
	27.2.2004	2004/3033
	5.4.2004	2005/950
	15.12.2004	2005/1817
	4.4.2005	2006/751
	15.7.2005	
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Section 333 and Schedule 38 (supplementary and consequential provision, etc.)(partially)	27.2.2004	2004/81
	4.4.2005	2005/950