



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 4

#### CHARGING ETC

#### 28 Charging or release of persons in police detention

Schedule 2 (which makes provision in relation to the charging or release of persons in police detention) shall have effect.

##### Commencement Information

- II** S. 28 wholly in force at 1.10.2007; s. 28 not in force at Royal Assent, see s. 336(3); s. 28 in force for certain purposes at 29.1.2004 by S.I. 2004/81, art. 4; s. 28 in force for certain purposes at 3.7.2004 by S.I. 2004/1629, art. 2 and s. 28 in force for certain further purposes at 1.10.2007 by S.I. 2007/2874, art. 2(1)(2)(a)

#### 29 New method of instituting proceedings

- (1) A public prosecutor may institute criminal proceedings against a person by issuing a document (a “written charge”) which charges the person with an offence.
- (2) Where a public prosecutor issues a written charge, it must at the same time issue a document (a “requisition”) which requires the person to appear before a magistrates' court to answer the written charge.
- (3) The written charge and requisition must be served on the person concerned, and a copy of both must be served on the court named in the requisition.
- (4) In consequence of subsections (1) to (3), a public prosecutor is not to have the power to lay an information for the purpose of obtaining the issue of a summons under section 1 of the Magistrates' Courts Act 1980 (c. 43).
- (5) In this section “public prosecutor” means—

*Status: Point in time view as at 06/04/2009.*

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- (a) a police force or a person authorised by a police force to institute criminal proceedings,
  - (b) the Director of the Serious Fraud Office or a person authorised by him to institute criminal proceedings,
  - (c) the Director of Public Prosecutions or a person authorised by him to institute criminal proceedings,
  - [<sup>F1</sup>(ca) the Director of Revenue and Customs Prosecutions or a person authorised by him to institute criminal proceedings,]
  - [<sup>F2</sup>(cb) the Director General of the Serious Organised Crime Agency or a person authorised by him to institute criminal proceedings;]
  - (d) the Attorney General or a person authorised by him to institute criminal proceedings,
  - (e) a Secretary of State or a person authorised by a Secretary of State to institute criminal proceedings,
  - (f) the Commissioners of Inland Revenue or a person authorised by them to institute criminal proceedings,
  - (g) the Commissioners of Customs and Excise or a person authorised by them to institute criminal proceedings, or
  - (h) a person specified in an order made by the Secretary of State for the purposes of this section or a person authorised by such a person to institute criminal proceedings.
- (6) In subsection (5) “police force” has the meaning given by section 3(3) of the Prosecution of Offences Act 1985 (c. 23).

#### Textual Amendments

- F1** S. 29(5)(ca) inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50(6), 53, **Sch. 4 para. 130**; S.I. 2005/1126, **art. 2(2)**
- F2** S. 29(5)(cb) inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 178, **Sch. 4 para. 196**; S.I. 2006/378, **art. 4(1)**, Sch. (subject to art. 4(2)-(7))

#### Commencement Information

- I2** S. 29 partly in force; s. 29 not in force at Royal Assent, see s. 336(3); s. 29(1)-(3)(5)(6) in force for certain purposes at 25.7.2007 by S.I. 2007/1999, **arts. 2, 3**; s. 29(1)-(3)(5)(6) in force for certain further purposes at 9.6.2008, 1.11.2009 and 1.1.2011 by S.I. 2008/1424, **arts. 2, 3**, S.I. 2009/2879, {arts. 2}, 3 and S.I. 2010/3005, **art. 2**

### 30 Further provision about new method

- (1) [<sup>F3</sup>Criminal Procedure Rules] may make—
- (a) provision as to the form, content, recording, authentication and service of written charges or requisitions, and
  - (b) such other provision in relation to written charges or requisitions as appears to the [<sup>F4</sup>Criminal Procedure Rule Committee] to be necessary or expedient.
- (2) Without limiting subsection (1), the provision which may be made by virtue of that subsection includes provision—
- (a) which applies (with or without modifications), or which disapplies, the provision of any enactment relating to the service of documents,

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- (b) for or in connection with the issue of further requisitions.
- (3) <sup>F5</sup> .....
- (4) Nothing in section 29 affects—
- (a) the power of a public prosecutor to lay an information for the purpose of obtaining the issue of a warrant under section 1 of the Magistrates' Courts Act 1980 (c. 43),
  - (b) the power of a person who is not a public prosecutor to lay an information for the purpose of obtaining the issue of a summons or warrant under section 1 of that Act, or
  - (c) any power to charge a person with an offence whilst he is in custody.
- (5) Except where the context otherwise requires, in any enactment contained in an Act passed before this Act—
- (a) any reference (however expressed) which is or includes a reference to an information within the meaning of section 1 of the Magistrates' Courts Act 1980 (c. 43) (or to the laying of such an information) is to be read as including a reference to a written charge (or to the issue of a written charge),
  - (b) any reference (however expressed) which is or includes a reference to a summons under section 1 of the Magistrates' Courts Act 1980 (or to a justice of the peace issuing such a summons) is to be read as including a reference to a requisition (or to a public prosecutor issuing a requisition).
- (6) Subsection (5) does not apply to section 1 of the Magistrates' Courts Act 1980.
- (7) The reference in subsection (5) to an enactment contained in an Act passed before this Act includes a reference to an enactment contained in that Act as a result of an amendment to that Act made by this Act or by any other Act passed in the same Session as this Act.
- (8) In this section “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29.

#### Textual Amendments

- F3** Words in s. 30(1) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 46\(2\)\(a\)](#) (with art. 2(2))
- F4** Words in s. 30(1)(b) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 46\(2\)\(b\)](#) (with art. 2(2))
- F5** S. 30(3) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 46\(3\)](#) (with art. 2(2))

#### Commencement Information

- I3** [S. 30](#) partly in force; [s. 30](#) not in force at Royal Assent, see [s. 336\(3\)](#); [s. 30](#) in force for certain purposes at 25.7.2007 by [S.I. 2007/1999](#), [arts. 2, 3](#); [s. 30](#) in force for certain further purposes at 9.6.2008, 1.11.2009 and 1.1.2011 by [S.I. 2008/1424](#), [arts. 2, 3](#), [S.I. 2009/2879](#), {[arts. 2](#)}, [3](#) and [S.I. 2010/3005](#), [art. 2](#)

### 31 Removal of requirement to substantiate information on oath

- (1) In section 1(3) of the Magistrates' Courts Act 1980 (warrant may not be issued unless information substantiated on oath) the words “and substantiated on oath” are omitted.

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- (2) In section 13 of that Act (non-appearance of defendant: issue of warrant) in subsection (3)(a) the words “the information has been substantiated on oath and” are omitted.
- (3) For subsection (3A)(a) of that section there is substituted—
- “(a) the offence to which the warrant relates is punishable, in the case of a person who has attained the age of 18, with imprisonment, or”.

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