
STATUTORY INSTRUMENTS

2010 No. 60

The Criminal Procedure Rules 2010

PART 7

STARTING A PROSECUTION IN A MAGISTRATES' COURT

When this Part applies

7.1.—(1) This Part applies in a magistrates' court where—

- (a) a prosecutor wants the court to issue a summons or warrant under section 1 of the Magistrates' Courts Act 1980(1);
- (b) a public prosecutor—
 - (i) wants the court to issue a warrant under section 1 of the Magistrates' Courts Act 1980, or
 - (ii) issues a written charge and requisition under section 29 of the Criminal Justice Act 2003(2); or
- (c) a person who is in custody is charged with an offence.

(2) In this Part, 'public prosecutor' means one of those public prosecutors listed in section 29 of the Criminal Justice Act 2003.

[Note. Under section 1 of the Magistrates' Courts Act 1980, on receiving a formal statement (described in that section as an 'information') alleging that someone has committed an offence, the court may issue—

- (a) *a summons requiring that person to attend court; or*
- (b) *a warrant for that person's arrest, if—*
 - (i) *the alleged offence must or may be tried in the Crown Court,*
 - (ii) *the alleged offence is punishable with imprisonment, or*
 - (iii) *the person's address cannot be established sufficiently clearly to serve a summons or requisition.*

The powers of the court to which this Part applies may be exercised by a single justice of the peace.

Under section 29 of the Criminal Justice Act 2003, a public prosecutor listed in that section may issue a written charge alleging that someone has committed an offence, and a requisition

(1) 1980 c. 43; section 1 was amended by section 68 of, and paragraph 6 of Schedule 8 to, the Criminal Justice Act 1991 (c. 53), sections 43 and 109 of, and Schedule 10 to, the Courts Act 2003 (c. 39) and sections 31, 331 and 332 of, and Schedule 7 and paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act 2003 (c. 44). It is further amended by section 331 of, and paragraphs 7 and 8 of Schedule 36 to, the Criminal Justice Act (c. 44), with effect from a date to be appointed).

(2) 2003 c. 44; section 29 has been brought into force for certain purposes only (see S.I. 2007/1999, S.I. 2008/1424 and S.I. 2009/2879). It was amended by section 50 of, and paragraph 130 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c. 11) and section 59 of, and paragraph 196 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15).

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requiring that person to attend court. Section 30 of that Act(3) contains other provisions about written charges and requisitions.

A person detained under a power of arrest may be charged if the custody officer decides that there is sufficient evidence to do so. See sections 37 and 38 of the Police and Criminal Evidence Act 1984(4).]

(3) 2003 c. 44; section 30 was amended by article 3 of, and paragraphs 45 and 46 of the Schedule to [S.I. 2004/2035](#).
(4) 1984 c. 60; section 37 was amended by section 108(7) of, and Schedule 15 to, the [Children Act 1989 \(c. 41\)](#), sections 72 and 101(2) of, and Schedule 13 to, the [Criminal Justice Act 1991 \(c. 53\)](#), sections 29(4) and 168(3) of, and Schedule 11 to, the [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), section 28 of, and paragraphs 1 and 2 of Schedule 2 to, the [Criminal Justice Act 2003 \(c. 44\)](#), section 23(1) of, and paragraphs 1 and 2 of Schedule 1 to, the [Drugs Act 2005 \(c. 17\)](#) and sections 11 and 52 of, and paragraph 9 of Schedule 14 to, the [Police and Justice Act 2006 \(c. 48\)](#). Section 38 was amended by section 108(5) of, and paragraph 53 of Schedule 13 to, the [Children Act 1989 \(c. 41\)](#); section 59 of the [Criminal Justice Act 1991 \(c. 53\)](#), sections 24, 28 and 168(2) of, and paragraph 54 of Schedule 10 to, the [Criminal Justice and Public Order Act 1994 \(c. 33\)](#), section 57 of the [Criminal Justice and Court Services Act 2000 \(c. 43\)](#), sections 5, 304 and 331 of, and paragraph 44 of Schedule 32, and paragraph 5 of Schedule 36 to, the [Criminal Justice Act 2003 \(c. 44\)](#) and section 23 of, and paragraphs 1 and 3 of Schedule 1 to, the [Drugs Act 2005 \(c. 17\)](#).