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SCHEDULES

SCHEDULE 36

FURTHER MINOR AND CONSEQUENTIAL AMENDMENTS

PART 2

CHARGING ETC

Criminal Law Act 1977 (c. 45)

6 In section 39 of the Criminal Law Act 1977 (service of summons and citation throughout United Kingdom) for subsection (1) there is substituted—

“(1) The following documents, namely—

- (a) a summons requiring a person charged with an offence to appear before a court in England or Wales,
- (b) a written charge (within the meaning of section 29 of the Criminal Justice Act 2003) charging a person with an offence,
- (c) a requisition (within the meaning of that section) requiring a person charged with an offence to appear before a court in England or Wales, and
- (d) any other document which, by virtue of any enactment, may or must be served on a person with, or at the same time as, a document mentioned in paragraph (a), (b) or (c) above,

may, in such manner as may be prescribed by rules of court, be served on him in Scotland or Northern Ireland.”

PROSPECTIVE

Magistrates' Courts Act 1980 (c. 43)

7 The Magistrates' Courts Act 1980 is amended as follows.

8 (1) Section 1 (issue of summons to accused or warrant for his arrest) is amended as follows.

(2) In subsection (3) after “section” there is inserted “ upon an information being laid ”.

(3) In subsection (4) after “summons” there is inserted “ , or a written charge and requisition, ”.

(4) In subsection (6) after “has” there is inserted “ , or a written charge and requisition have, ”.

(5) After subsection (6) there is inserted—

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“(6A) Where the offence charged is an indictable offence and a written charge and requisition have previously been issued, a warrant may be issued under this section by a justice of the peace upon a copy of the written charge (rather than an information) being laid before the justice by a public prosecutor.”

(6) After subsection (7) there is inserted—

“(7A) For the purposes of subsection (6A) above, a copy of a written charge may be laid before, and a warrant under this section may be issued by, a single justice of the peace.”

9 In section 150(1) (interpretation of other terms) after the definition of “prescribed” there is inserted—

““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”.

Prosecution of Offences Act 1985 (c. 23)

10 (1) Section 15 of the Prosecution of Offences Act 1985 (interpretation) is amended as follows.

(2) In subsection (1) after the definition of “public authority” there is inserted—

““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”.

(3) In subsection (2), after paragraph (b) there is inserted—

“(ba) where a public prosecutor issues a written charge and requisition for the offence, when the written charge and requisition are issued;”.

PROSPECTIVE

Criminal Justice and Public Order Act 1994 (c. 33)

11 (1) Section 51 of the Criminal Justice and Public Order Act 1994 (intimidation, etc, of witnesses, jurors and others) is amended as follows.

(2) In subsection (9), for the word “and” at the end of the definition of “potential” there is substituted—

““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”

(3) In subsection (10)(a), after sub-paragraph (i) there is inserted—

“(ia) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

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PROSPECTIVE

Drug Trafficking Act 1994 (c. 37)

- 12 (1) Section 60 of the Drug Trafficking Act 1994 (prosecution by order of Commissioners of Customs and Excise) is amended as follows.
- (2) In subsection (6) for the word “and” at the end of the definition of “officer” there is substituted—
- ““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”.
- (3) In subsection (6A), after paragraph (a) there is inserted—
- “(aa) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

PROSPECTIVE

Merchant Shipping Act 1995 (c. 21)

- 13 (1) Section 145 of the Merchant Shipping Act 1995 (interpretation of section 144) is amended as follows.
- (2) In subsection (2)(a), after sub-paragraph (i) there is inserted—
- “(ia) when a public prosecutor issues a written charge and requisition in respect of the offence;”.
- (3) After subsection (2) there is inserted—
- “(2A) In subsection (2) above “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

PROSPECTIVE

Terrorism Act 2000 (c. 11)

- 14 (1) Paragraph 11 of Schedule 4 to the Terrorism Act 2000 (proceedings for an offence: timing) is amended as follows.
- (2) In sub-paragraph (1), after paragraph (a) there is inserted—
- “(aa) when a public prosecutor issues a written charge and requisition in respect of the offence;”.
- (3) After sub-paragraph (2) there is inserted—
- “(2A) In sub-paragraph (1) “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

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Proceeds of Crime Act 2002 (c. 29)

- 15 (1) Section 85 of the Proceeds of Crime Act 2002 (proceedings) is amended as follows.
- (2) In subsection (1), after paragraph (a) there is inserted—
- “(aa) when a public prosecutor issues a written charge and requisition in respect of the offence;”.
- (3) After subsection (8) there is inserted—
- “(9) In this section “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

PROSPECTIVE

Crime (International Co-operation) Act 2003 (c. 32)

- 16 After section 4 of the Crime (International Co-operation) Act 2003 there is inserted—

“4A General requirements for service of written charge or requisition

- (1) This section applies to the following documents issued for the purposes of criminal proceedings in England and Wales by a prosecutor—
- (a) a written charge (within the meaning of section 29 of the Criminal Justice Act 2003),
- (b) a requisition (within the meaning of that section).
- (2) The written charge or requisition may be issued in spite of the fact that the person on whom it is to be served is outside the United Kingdom.
- (3) Where the written charge or requisition is to be served outside the United Kingdom and the prosecutor believes that the person on whom it is to be served does not understand English, the written charge or requisition must be accompanied by a translation of it in an appropriate language.
- (4) A written charge or requisition served outside the United Kingdom must be accompanied by a notice giving any information required to be given by rules of court.
- (5) If a requisition is served outside the United Kingdom, no obligation under the law of England and Wales to comply with the requisition is imposed by virtue of the service.
- (6) Accordingly, failure to comply with the requisition is not a ground for issuing a warrant to secure the attendance of the person in question.
- (7) But the requisition may subsequently be served on the person in question in the United Kingdom (with the usual consequences for non-compliance).

4B Service of written charge or requisition otherwise than by post

- (1) A written charge or requisition to which section 4A applies may, instead of being served by post, be served on a person outside the United Kingdom in accordance with arrangements made by the Secretary of State.

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- (2) But where the person is in a participating country, the written charge or requisition may be served in accordance with those arrangements only if one of the following conditions is met.
- (3) The conditions are—
- (a) that the correct address of the person is unknown,
 - (b) that it has not been possible to serve the written charge or requisition by post,
 - (c) that there are good reasons for thinking that service by post will not be effective or is inappropriate.”

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