



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Witness orders and summonses*

#### **65 Abolition of witness orders.**

- (1) Section 1 of the <sup>M1</sup>Criminal Procedure (Attendance of Witnesses) Act 1965 (examining justices to order witness to attend and give evidence before Crown Court) shall be omitted.
- (2) In that Act the following words shall be omitted—
  - (a) in section 3(1) the words “witness order or”;
  - (b) in section 4(1) the words “witness order or” and (where they next occur) “order or”;
  - (c) in the proviso to section 4(1) the words from “in the case” (where they first occur) to “witness summons”;
  - (d) in section 4(2) the words “a witness order or” and (where they next occur) “order or”.
- (3) In section 145 of the <sup>M2</sup>Magistrates’ Courts Act 1980 (rules) subsection (1)(e) (which relates to witness orders) shall be omitted.
- (4) This section shall have effect in accordance with provision made by the Secretary of State by order.

#### **Subordinate Legislation Made**

**P1** S. 65(4) power exercised (8.3.1997) by S.I. 1997/683.

*Status: Point in time view as at 04/07/1996.*

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### Marginal Citations

- M1** 1965 c. 69.  
**M2** 1980 c. 43.

## 66 Summons to witness to attend Crown Court.

- (1) The Criminal Procedure (Attendance of Witnesses) Act 1965 shall be amended as follows.
- (2) The following shall be substituted for section 2 (summons to witness to attend Crown Court)—

*“ Issue of witness summons on application*

### **2 Issue of witness summons on application to Crown Court.**

- (1) This section applies where the Crown Court is satisfied that—
  - (a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely to be material evidence, for the purpose of any criminal proceedings before the Crown Court, and
  - (b) the person will not voluntarily attend as a witness or will not voluntarily produce the document or thing.
- (2) In such a case the Crown Court shall, subject to the following provisions of this section, issue a summons (a witness summons) directed to the person concerned and requiring him to—
  - (a) attend before the Crown Court at the time and place stated in the summons, and
  - (b) give the evidence or produce the document or thing.
- (3) A witness summons may only be issued under this section on an application; and the Crown Court may refuse to issue the summons if any requirement relating to the application is not fulfilled.
- (4) Where a person has been committed for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after the committal.
- (5) Where the proceedings concerned have been transferred to the Crown Court, an application must be made as soon as is reasonably practicable after the transfer.
- (6) Where the proceedings concerned relate to an offence in relation to which a bill of indictment has been preferred under the authority of section 2(2)(b) of the <sup>M3</sup>Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of judge) an application must be made as soon as is reasonably practicable after the bill was preferred.
- (7) An application must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.

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- (8) Crown Court rules—
- (a) may, in such cases as the rules may specify, require an application to be made by a party to the case;
  - (b) may, in such cases as the rules may specify, require the service of notice of an application on the person to whom the witness summons is proposed to be directed;
  - (c) may, in such cases as the rules may specify, require an application to be supported by an affidavit containing such matters as the rules may stipulate;
  - (d) may, in such cases as the rules may specify, make provision for enabling the person to whom the witness summons is proposed to be directed to be present or represented at the hearing of the application for the witness summons.
- (9) Provision contained in Crown Court rules by virtue of subsection (8)(c) above may in particular require an affidavit to—
- (a) set out any charge on which the proceedings concerned are based;
  - (b) specify any stipulated evidence, document or thing in such a way as to enable the directed person to identify it;
  - (c) specify grounds for believing that the directed person is likely to be able to give any stipulated evidence or produce any stipulated document or thing;
  - (d) specify grounds for believing that any stipulated evidence is likely to be material evidence;
  - (e) specify grounds for believing that any stipulated document or thing is likely to be material evidence.
- (10) In subsection (9) above—
- (a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons;
  - (b) references to the directed person are to the person to whom the witness summons is proposed to be directed.

## **2A Power to require advance production.**

A witness summons which is issued under section 2 above and which requires a person to produce a document or thing as mentioned in section 2(2) above may also require him to produce the document or thing—

- (a) at a place stated in the summons, and
- (b) at a time which is so stated and precedes that stated under section 2(2) above,

for inspection by the person applying for the summons.

## **2B Summons no longer needed.**

- (1) If—
- (a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under section 2A above,

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- (b) the person applying for the summons concludes that a requirement imposed by the summons under section 2(2) above is no longer needed, and
  - (c) he accordingly applies to the Crown Court for a direction that the summons shall be of no further effect,the court may direct accordingly.
- (2) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (3) Crown Court rules may, in such cases as the rules may specify, require the effect of a direction under this section to be notified to the person to whom the summons is directed.

### **2C Application to make summons ineffective.**

- (1) If a witness summons issued under section 2 above is directed to a person who—
  - (a) applies to the Crown Court,
  - (b) satisfies the court that he was not served with notice of the application to issue the summons and that he was neither present nor represented at the hearing of the application, and
  - (c) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,the court may direct that the summons shall be of no effect.
- (2) For the purposes of subsection (1) above it is immaterial—
  - (a) whether or not Crown Court rules require the person to be served with notice of the application to issue the summons;
  - (b) whether or not Crown Court rules enable the person to be present or represented at the hearing of the application.
- (3) In subsection (1)(b) above “served” means—
  - (a) served in accordance with Crown Court rules, in a case where such rules require the person to be served with notice of the application to issue the summons;
  - (b) served in such way as appears reasonable to the court to which the application is made under this section, in any other case.
- (4) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
- (5) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (6) Crown Court rules may, in such cases as the rules may specify, require the service of notice of an application under this section on the person on whose application the witness summons was issued.

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- (7) Crown Court rules may, in such cases as the rules may specify, require that where—
- (a) a person applying under this section can produce a particular document or thing, but
  - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,
- he must arrange for the document or thing to be available at the hearing of the application.
- (8) Where a direction is made under this section that a witness summons shall be of no effect, the person on whose application the summons was issued may be ordered to pay the whole or any part of the costs of the application under this section.
- (9) Any costs payable under an order made under subsection (8) above shall be taxed by the proper officer of the court, and payment of those costs shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case or as a sum adjudged summarily to be paid as a civil debt.

#### *Issue of witness summons of court's own motion*

### **2D Issue of witness summons of Crown Court's own motion.**

For the purpose of any criminal proceedings before it, the Crown Court may of its own motion issue a summons (a witness summons) directed to a person and requiring him to—

- (a) attend before the court at the time and place stated in the summons, and
- (b) give evidence, or produce any document or thing specified in the summons.

### **2E Application to make summons ineffective.**

- (1) If a witness summons issued under section 2D above is directed to a person who—
- (a) applies to the Crown Court, and
  - (b) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,
- the court may direct that the summons shall be of no effect.
- (2) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
- (3) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (4) Crown Court rules may, in such cases as the rules may specify, require that where—

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- (a) a person applying under this section can produce a particular document or thing, but
  - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,
- he must arrange for the document or thing to be available at the hearing of the application.

*Other provisions”.*

- (3) In section 3 (punishment for disobedience to witness summons) after subsection (1) there shall be inserted—
- “(1A) Any person who without just excuse disobeys a requirement made by any court under section 2A above shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt had been committed in the face of the court.”
- (4) In section 3, in subsection (2) for the words “such disobedience” there shall be substituted “any disobedience mentioned in subsection (1) or (1A) above”.
- (5) In section 4 (further process to secure attendance of witness) in the proviso to subsection (1) after the word “give” there shall be inserted “evidence likely to be”.
- (6) Schedule 1 (application for direction that witness summons shall be of no effect) shall be omitted.
- (7) This section applies in relation to any proceedings for the purpose of which no witness summons has been issued under section 2 of the 1965 Act before the appointed day.
- (8) The reference in subsection (7) to the appointed day is to such day as is appointed for the purposes of this section by the Secretary of State by order.

**Extent Information**

- E1** In its application to Northern Ireland, this section has effect subject to the modifications set out in Schedule 4; see [s. 79](#)

**Subordinate Legislation Made**

- P2** [S. 66\(8\)](#) power partly exercised: 1.4.1999 (E.W) appointed for specified provision by [S.I. 1999/718, art. 2](#)  
[S. 66\(8\)](#) power partly exercised: 21.8.2000 (N.I.) appointed for specified provision by [S.I. 2000/1968, art. 2](#)

**Marginal Citations**

- M3** [1933 c. 36.](#)

**67 Witness summons: securing attendance of witness.**

- (1) In section 4(1) of the <sup>M4</sup>Criminal Procedure (Attendance of Witnesses) Act 1965 (judge of High Court may issue warrant to arrest witness in respect of whom witness summons is in force) for the words “High Court” there shall be substituted “Crown Court”.

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- (2) This section shall have effect in accordance with provision made by the Secretary of State by order.

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**Modifications etc. (not altering text)**

**C1** S. 67 applied (9.3.1999) by S.I. 1999/716, art. 2

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**Commencement Information**

**II** S. 67 partly in force at 9.3.1999; s.67 not in force at Royal Assent, see s. 67(2); s. 67 in force for certain purposes by S.I. 1999/716, art. 2

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**Marginal Citations**

**M4** 1965 c. 69.

**Status:**

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**Changes to legislation:**

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