

**Changes to legislation:** *Criminal Procedure and Investigations Act 1996, Paragraph 28 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## SCHEDULES

### SCHEDULE 4

#### MODIFICATIONS FOR NORTHERN IRELAND

##### Extent Information

- E1** Sch. 4 extends to Northern Ireland but the operation of Sch. 4 is limited by application as mentioned in s. 79(4)

##### *Part VII of this Act*

28 For section 66 substitute—

“**66** (1) After section 51 of the Judicature (Northern Ireland) Act 1978 there shall be inserted—

##### **51A “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.

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- (6) Where the proceedings concerned relate to an offence in relation to which an indictment has been presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, an application must be made as soon as is reasonably practicable after the indictment is presented.
- (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.
- (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) 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)—
  - (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.

### **51B Power to require advance production.**

A witness summons which is issued under section 51A and which requires a person to produce a document or thing as mentioned in section 51A(2) 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 51A(2),

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for inspection by the person applying for the summons.

**51C 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 51B,
  - (b) the person applying for the summons concludes that a requirement imposed by the summons under section 51A(2) 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.

**51D Application to make summons ineffective.**

- (1) If a witness summons issued under section 51A 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) 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) “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 Crown Court, 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.

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- (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.
- (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) shall be taxed by the Master (Taxing Office), 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.

#### **51E 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.

#### **51F Application to make summons ineffective.**

- (1) If a witness summons issued under section 51E 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.

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- (4) 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.

**51G Punishment for disobedience to witness summons.**

- (1) Any person who without just excuse—
- (a) disobeys a witness summons requiring him to attend before the Crown Court; or
  - (b) disobeys a requirement made by the Crown Court under section 51B,
- shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt were in the face of the court.
- (2) A person shall not be committed to prison by reason of any disobedience mentioned in subsection (1) for a period exceeding three months.

**51H Further process to secure attendance of witnesses.**

- (1) If the Crown Court is satisfied by evidence on oath that—
- (a) a witness in respect of whom a witness summons is in force is unlikely to comply with the summons; and
  - (b) the witness is likely to be able to give evidence likely to be material evidence or produce any document or thing likely to be material evidence in the proceedings,
- the Crown Court may issue a warrant to arrest the witness and bring him before the court.
- (2) Where a witness who is required to attend before the Crown Court by virtue of a witness summons fails to attend in compliance with the summons, the Crown Court may—
- (a) in any case, cause to be served on him a notice requiring him to attend the court forthwith or at such time as may be specified in the notice;
  - (b) if the court is satisfied that there are reasonable grounds for believing that he has failed to attend without just excuse, or if he has failed to comply with a notice under paragraph (a), issue a warrant to arrest him and bring him before the court.
- (3) A witness brought before the Crown Court in pursuance of a warrant under this section may be remanded by that court in custody or on bail (with or without sureties) until such time as the court may appoint for receiving his evidence or dealing with him under section 51G.
- (4) Where a witness attends the Crown Court in pursuance of a notice under this section, the court may direct that the notice shall have effect as if it

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required him to attend at any later time appointed by the court for receiving his evidence or dealing with him under section 51G.”

- (2) No subpoena ad testificandum or subpoena duces tecum shall issue after the appointed day in respect of any criminal proceedings for the purposes of which—
  - (a) a witness summons may be issued under section 51A of the Judicature (Northern Ireland) Act 1978; or
  - (b) a summons may be issued under Article 118 of the Magistrates’ Courts (Northern Ireland) Order 1981 (process for attendance of witnesses in magistrates’ courts).
- (3) In section 47(4) of the Judicature (Northern Ireland) Act 1978 after the words “Subject to” there shall be inserted the words “section 66(2) of the Criminal Procedure and Investigations Act 1996 (subpoenas not to issue in certain criminal cases) and to”.
- (4) This section applies in relation to any proceedings for the purposes of which no summons requiring the attendance of a witness has been issued before the appointed day.
- (5) The references in subsections (2) and (4) to the appointed day are to such day as is appointed for the purposes of this section by the Secretary of State by order.”

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(6) added by [1997 c. 39 s. 9\(4\)](#)
- s. 5(1A) amendment to earlier affecting provision 2015 c. 9 (N.I.), Sch. 2 para. 8 by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(i\)](#)
- s. 5(1A) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 8](#)
- s. 5(1A) words substituted in earlier affecting provision 2015 c. 9 (N.I.), Sch. 2 para. 8(1) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(ii\)](#)
- s. 13(1)(ba)(b) substituted for s. 13(1)(b) by 2015 c. 9 (N.I.), Sch. 2 para. 8(2) (as inserted) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(f\)\(iii\)](#)
- Sch. 4 para. 4(f) and word added by [S.I. 2003/1247 \(N.I.\) Sch. 1 para. 16](#)