



Criminal Procedure (Attendance of Witnesses) Act 1965

1965 CHAPTER 69

An Act to make new provision for securing the attendance of witnesses in criminal proceedings before courts of assize and quarter sessions; to abolish the binding over of prosecutors for the purpose of such proceedings; to restrict the issue of subpoenas for securing the attendance of witnesses before magistrates' courts; and for connected purposes. [5th August 1965]

Textual Amendments

F1 Act amended (E.W.) by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), [s. 5\(8\)](#)

Modifications etc. (not altering text)

- C1** Act modified (prosp.) by [War Crimes Act 1991 \(c. 13, SIF 39:4\)](#), [s. 1\(4\)](#), [Sch. Part I para.4](#)
- C2** Act amended (E.W.) (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 53\(5\)](#), [Sch. 6 para. 3](#); [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#)
- C3** By [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 101\(1\)](#), [Sch. 12 para.23](#); [S.I. 1991/2208, art. 2\(1\)](#), [Sch.1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

Commencement Information

I1 Act wholly in force at 5.10.1965 see [s. 10\(4\)](#)

1 Order by examining justices for attendance of witness at court of trial.

- (1) A magistrates' court acting as examining justices shall in respect of each witness examined by the court, other than the accused and any witness of his merely to his character, make an order (in this Act referred to as a witness order) requiring him to attend and give evidence before [^{F2}the Crown Court].

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Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)

- (2) Where it appears to the court, after taking into account any representation made by the accused or the prosecutor, that the attendance at the trial of any witness is unnecessary on the ground that his evidence is unlikely to be required or is unlikely to be disputed, then—
- (a) any witness order to be made by the court in his case shall be a conditional order requiring him to attend the trial if notice in that behalf is given to him and not otherwise; and
 - (b) if a witness order other than a conditional order has previously been made by the court in his case, the court shall direct that that order be treated as a conditional order.
- (3) A magistrates' court on committing any person for trial shall inform him of his right to require the attendance at the trial of any witness in respect of whom a conditional witness order, or an order treated as a conditional witness order, has been made, and of the steps he must take for the purpose of enforcing the attendance.
- (4) ^{F3}

Textual Amendments

F2 Words substituted by Courts Act 1971 (c. 23), Sch. 8 para. 45(1)

F3 S. 1(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

[^{F4} Issue of witness summons on application]

Textual Amendments

F4 Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 as appointed day by S.I. 1999/718) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2

2 Summons to witness to attend court of assize or quarter sessions.

- (1) For the purpose of any criminal proceedings before [^{F5}the Crown Court]a witness summons, that is to say, a summons requiring the person to whom it is directed to attend before [^{F5}the Crown Court]and give evidence or produce any document or thing specified in the summons, may be issued out of that court or out of the High Court.
- (2) If any person in respect of whom a witness summons has been issued applies to [^{F5}the Crown Court]or to the High Court, and satisfies the court that he cannot give any 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.
- (3) The provisions of Schedule 1 to this Act shall have effect in relation to applications under the last foregoing subsection.

Textual Amendments

F5 Words substituted by Courts Act 1971 (c. 23 Sch. 8 para. 45(2)

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VALID FROM 04/07/1996

[^{F6}2A ^{F7} 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.

Textual Amendments

- F6** Ss. 2-2E and relevant cross-headings substituted for s. 2 (4.7.1996, with effect at 1.4.1999, (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2
- F7** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

VALID FROM 04/07/1996

2B ^{F8} 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,
 - (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.

Textual Amendments

- F6** Ss. 2-2E and relevant cross-headings substituted for s. 2 (4.7.1996, with effect at 1.4.1999, (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2
- F8** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

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VALID FROM 04/07/1996

2C ^{F9} **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.
- (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

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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.]

Textual Amendments

- F6** Ss. 2-2E and relevant cross-headings substituted for s. 2 (4.7.1996, with effect at 1.4.1999, (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2
- F9** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

VALID FROM 04/07/1996

F10 Issue of witness summons of court's own motion

Textual Amendments

- F10** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

2D ^{F11} **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.

Textual Amendments

- F11** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted (4.7.1996 with effect at 1.4.1999 as appointed day by S.I. 1999/718, art. 2) for s. 2 by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2

2E ^{F12} **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.

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(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—

(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.

Textual Amendments

F12 Ss. 2-2E and relevant cross-headings substituted for s. 2 (4.7.1996, with effect at 1.4.1999, (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

F13 Other provisions

Textual Amendments

F13 Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted (4.7.1996 with effect at 1.4.1999 as appointed day by S.I. 1999/718) for s. 2 by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2

3 Punishment for disobedience to witness order or witness summons.

(1) Any person who without just excuse disobeys a witness order or witness summons requiring him to attend before any court 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.

(2) No person shall by reason of such disobedience be liable to imprisonment for a period exceeding three months.

(3) **F14**

Textual Amendments

F14 Ss. 3(3), 5, 6, 7(1) repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. IV

4 Further process to secure attendance of witness.

(1) If a judge of the High Court is satisfied by evidence on oath that a witness in respect of whom a witness order or witness summons is in force is unlikely to comply with the order or summons, the judge may issue a warrant to arrest the witness and bring him before the court before which he is required to attend:

Provided that a warrant shall not be issued under this subsection in the case of a witness subject to a conditional witness order unless notice has been given requiring him to

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attend the trial, nor in the case of a witness subject to a witness summons unless the judge is satisfied by such evidence as aforesaid that the witness is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings.

- (2) Where a witness who is required to attend before [^{F15}the Crown Court]by virtue of a witness order or a witness summons fails to attend in compliance with the order or summons, that 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) above, issue a warrant to arrest him and bring him before the court.
- (3) A witness brought before a 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 3 of this Act; and where a witness attends a court in pursuance of a notice under this section the court may direct that the notice shall have effect as if it required him to attend at any later time appointed by the court for receiving his evidence or dealing with him as aforesaid.

Textual Amendments
F15 Words substituted by Courts Act 1971 (c. 23 Sch. 8 para. 45(4))

Modifications etc. (not altering text)
C4 S. 4 amended by Courts Act 1971 (c. 23), Sch. 8 para. 45(3)

5, 6. ^{F16}

Textual Amendments
F16 Ss. 3(3), 5, 6, 7(1) repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. IV

7
(1) ^{F17}
(2) ^{F18}

Textual Amendments
F17 Ss. 3(3), 5, 6, 7(1) repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. IV
F18 S. 7(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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8 Abolition of subpoenas in certain proceedings.

No subpoena ad testificandum or subpoena duces tecum shall issue after the commencement of this Act in respect of any proceedings for the purpose of which a witness summons may be issued under section 2 of this Act or in respect of any proceedings for the purpose of which a summons may be issued under [^{F19}section 97 of the Magistrates' Courts Act 1980](process for attendance of witnesses in magistrates' courts).

Textual Amendments

F19 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 56](#)

9 ^{F20}

Textual Amendments

F20 [S. 9](#) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 6 Pt. I](#)

10 †Short title, consequential amendments and repeals, commencement, interpretation and extent.

- (1) This Act may be cited as the Criminal Procedure (Attendance of Witnesses) Act 1965.
- (2) ^{F21}
- (3) The enactments mentioned in Part I of Schedule 2 to this Act shall have effect subject to the amendments specified in the second column of that part, . . . ^{F22}.
- (4) This Act shall come into force at the expiration of the period of two months beginning with the date on which it is passed.
- (5) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by any other enactment.
- (6) ^{F23}so much of this section and Schedule 2 to this Act as relates to the ^{M1}Writ of Subpoena Act 1805 extends to Scotland and Northern Ireland, but, save as aforesaid, this Act does not extend to Scotland and Northern Ireland.

Extent Information

E1 [S. 10\(6\)](#): by virtue of the substitution (4.7.1996) of ss. 2-2E for s. 2 by [1996 c. 25, s. 66\(2\)\(7\)](#), ss. 2-2E extend to England, Wales and Northern Ireland

Textual Amendments

- F21** [S. 10\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)
- F22** [S. 10\(3\)](#) residue repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)
- F23** Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 6 Pt. I](#)

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Modifications etc. (not altering text)

- C5** Unreliable marginal note
- C6** The text of s. 10(3) and Sch. 2 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as indicated does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M1** 1805 c. 92.

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SCHEDULES

SCHEDULE 1

Section 2.

APPLICATION FOR DIRECTION THAT WITNESS SUMMONS BE OF NO EFFECT

Procedure

- 1 Any application under section 2(2) of this Act for a direction in respect of a witness summons shall be made in accordance with [^{F24}Crown Court rules or] rules of court . . . ^{F25}

Textual Amendments

- F24** Words substituted by Courts Act 1971 (c. 23), Sch. 8 para. 45(5)
- F25** Words repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. IV

- 2 Provision shall be made by [^{F26}Crown Court rules or] rules of court . . . ^{F27}
 - (a) for requiring the service of notice of any such application on the person at whose instance the witness summons was issued;
 - (b) for enabling any such application to the High Court to be heard and determined by a judge of that Court in chambers;
 - (c) ^{F28}

Textual Amendments

- F26** Words substituted by Courts Act 1971 (c. 23), Sch. 8 para. 45(5)
- F27** Words repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. IV
- F28** Para. 2(c) repealed by Courts Act 1971 (c. 23) Sch. 11 Pt. IV

Costs

- 3 Where on any such application a direction is given that a witness summons shall be of no effect, the person at whose instance the summons was issued may be ordered to pay the whole or any part of the costs of the application.
- 4 Any costs payable under such an order 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.

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SCHEDULE 2

Section 10.

CONSEQUENTIAL AMENDMENTS AND REPEALS

Part I

Modifications etc. (not altering text)

- C7** The text of s. 10(3) and Sch. 2 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as indicated does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The Writ of Subpoena Act 1805.

In sections 3 and 4 references to a writ of subpoena requiring the appearance of a person to give evidence shall be construed as including references to a witness summons under section 2 of this Act.

45 Geo. 3. c. 92.

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F29

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The Criminal Justice Act 1925.

In section 13(3), in paragraph (a), for the words “whose attendance at the trial is stated to be unnecessary in accordance with the provisions of this section” there shall be substituted the words “in respect of whom a conditional witness order, or an order treated as a conditional witness order, has been made under Section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965”, and in proviso (ii), for the words “whose attendance” there shall be substituted the words “in respect of whom such an order as aforesaid has been made”.

15 & 16 Geo. 5. c. 86

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F30

...
F30

Textual Amendments

- F29** Entries repealed by [Courts Act 1971 \(c. 23\)](#), [s. 56\(4\) Sch. 11](#), Pt. IV
- F30** In Sch. 2 Pt. I the entry relating to the Magistrates' Courts Act 1952 repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

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Part II . . . ^{F31}

Textual Amendments

F31 Sch. 2 Pt. II repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

Status:

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Changes to legislation:

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