



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

### PART IV

#### THE CROWN COURT

#### **46 Exclusive jurisdiction in trial on indictment.**

- (1) The Crown Court shall be a superior court of record.
- (2) All proceedings on indictment shall be brought before the Crown Court.
- (3) The jurisdiction of the Crown Court under subsection (2) shall include jurisdiction—
  - (a) in proceedings on indictment for offences, wherever committed, which are recognisable under the law of Northern Ireland; and
  - (b) in particular, in proceedings on indictment for offences triable in Northern Ireland by virtue of any jurisdiction in admiralty.

[<sup>F1</sup>(3A) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of Northern Ireland as they apply in relation to offences under that Act or instruments under that Act.]

- (4) All courts of assize are hereby abolished, and commissions, whether ordinary or special, to hold any court of assize shall not be issued.
- (5) The jurisdiction conferred on county courts by section 40 of the <sup>M1</sup>County Courts Act (Northern Ireland) 1959 is hereby abolished.
- (6) Subject to any provision contained in or having effect under this Act, all statutory provisions and rules of law relating to the jurisdiction and procedure of any court in connection with indictable offences shall have effect subject only to such modifications as are rendered necessary by the transfer of jurisdiction to the Crown Court in accordance with the preceding provisions of this section.

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- (7) Subject to any provision contained in or having effect under this Act and without prejudice to the generality of subsection (6), the transfer of jurisdiction to the Crown Court in accordance with the preceding provisions of this section shall not affect—
- (a) the practice by which, on any one indictment, the taking of pleas, the trial by jury and the pronouncement of judgment may respectively be by or before different judges;
  - (b) the release, after respite of judgment, of a convicted person on recognizance to come up for judgment if called on, but meanwhile to be of good behaviour;
  - (c) the manner of trying any question relating to the breach of a recognizance; or
  - (d) the manner of execution of any sentence on conviction, or the manner in which any other judgment or order given in connection with trial on indictment may be enforced.

#### Textual Amendments

**F1** S. 46(3A) added (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para.52.** (with s. 312(1))

#### Marginal Citations

**M1** 1959 c. 25 (N.I.)

## 47 Exercise of jurisdiction by Crown Court.

- (1) All proceedings in the Crown Court shall be heard and disposed of before a single judge, and—
- (a) any Crown Court business may be conducted at any place in Northern Ireland;
  - (b) sittings of the Crown Court at any place may be continuous or intermittent or occasional;
  - (c) judges may sit simultaneously to take any number of different cases in the same or in different places, and all or any of them may adjourn cases from time to time and may do so from place to place at any time.
- (2) The judges of the High Court and the county court shall sit in the Crown Court in accordance with directions given by the [<sup>F2</sup>Lord Chief Justice] and the cases or classes of cases suitable for allocation to judges of the High Court and to county court judges respectively and all other matters relating to the distribution of Crown Court business shall be determined in accordance with directions given by the [<sup>F3</sup>Lord Chief Justice].
- (3) The places at which the Crown Court sits and the days and times when the Crown Court sits at any place shall be determined in accordance with directions given by the [<sup>F4</sup>Lord Chief Justice].
- (4) Subject to [<sup>F5</sup> section 66 (2) of the Criminal Procedure and Investigations Act 1996 (subpoenas not to issue in certain criminal cases) and to]. any provision contained in or having effect under this Act, the Crown Court shall, in relation to the attendance and examination of witnesses, any contempt of court, the enforcement of its orders and all other matters incidental to its jurisdiction, have the like powers, rights and authority as the High Court or the county court.
- (5) Officers of the Crown Court shall be responsible for the keeping of the records of the proceedings of the court, the notification to those concerned of the place and time appointed for any proceedings or other business and such other formal or

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administrative matters as may be specified by directions given by the Lord Chancellor [F6after consultation with the Lord Chief Justice].

(6) The Royal Ulster Constabulary shall give effect to any orders or directions which may be given to it by the Crown Court.

[F7(7) The Lord Chief Justice may nominate any of the following to exercise his functions under this section—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F2** Words in s. 47(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 24(2)(a)**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F3** Words in s. 47(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 24(2)(b)**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F4** Words in s. 47(3) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 24(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F5** Words in s. 47(4) inserted (4.7.1996) by virtue of 1996 c. 25, ss. 79(4), **Sch. 4**, paras. 1, 28 (by virtue of which provisions, the 1996 Act has effect subject to the modification that in its application to N.I. for s. 66(3)(4) of that Act there is substituted s. 66(3)(4) as set out in Sch. 4 para. 28 of the 1996 Act)
- F6** Words in s. 47(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 24(4)**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F7** S. 47(7) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 24(5)**; S. I. 2006/1014, **art. 2(a)**, **Sch. 1 para. 12(a)**

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

- C1** S. 47(5) transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 17 para. 6(b)** (with arts. 28-31)

## 48 Committal for trial on indictment.

(1) A magistrates' court committing a person for trial shall specify the place at which he is to be tried, and in selecting that place shall have regard to—

- (a) the convenience of the defence, the prosecution and the witnesses;
- (b) the expediting of the trial; and
- (c) any directions given by the [F8Lord Chief Justice] under section 47(2).

(2) Without prejudice to the preceding provisions of this Act about the distribution of Crown Court business, the Crown Court may give directions or further directions altering the place of any trial on indictment, either by varying the decision of a magistrates' court under subsection (1) or [F9by substituting some other place for the place specified in a notice under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [F10or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995](notices of transfer from magistrates' court to Crown Court) or by varying] a previous direction of the Crown Court.

(3) The defendant or the prosecutor, if dissatisfied with the place of trial as fixed by the magistrates' court [F11, as specified in a notice under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [F12or under Article 4 of the Children's

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Evidence (Northern Ireland) Order 1995] or as fixed] by the Crown Court, may apply to the Crown Court for a direction or further direction varying the place of trial; and the court shall take the matter into consideration and may grant or refuse the application, or give such other direction as the court thinks fit.

- (4) <sup>F13</sup> .....
- (5) The trial of a person committed by a magistrates' court—
- (a) shall not begin until the expiration of the specified period beginning with the date of his committal [<sup>F14</sup>or of the giving of a notice of transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [<sup>F15</sup>or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995]], except with his consent and the consent of the prosecutor; and
  - (b) shall, unless the Crown Court has otherwise ordered, begin not later than the expiration of the specified period beginning with the date of his committal [<sup>F14</sup>or of the giving of a notice of transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988][<sup>F16</sup>or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995] (that is to say a period longer than the period specified for the purposes of paragraph (a) above for the proceedings in question).

For the purposes of this subsection—

- (i) “the specified period” means such period for the respective purposes of paragraphs (a) and (b) as may be specified by Crown Court rules and the rules may make different provision for different places of trial or for other different circumstances;
  - (ii) the trial shall be deemed to begin when the defendant is arraigned.
- (6) Directions under subsection (2) may be given on behalf of the Crown Court by an officer of the Crown Court, but the power to make orders conferred on the Crown Court by subsection (5)(b) shall be exercisable only by a judge of the court.
- <sup>F17</sup>(6A) Where a preparatory hearing has been ordered under Article 6 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988, directions altering the place of trial may be given under subsection (2) at any time before [<sup>F18</sup>the time when the jury are sworn].]
- <sup>F19</sup>(6B) The reference in subsection (6A) to the time when the jury are sworn includes the time when the jury would be sworn but for—
- (a) the making of an order under Part 7 of the Criminal Justice Act 2003, or
  - (b) the application of [<sup>F20</sup>section 5 of the Justice and Security (Northern Ireland) Act 2007] .]

#### Textual Amendments

- F8** Words in s. 48(1)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 25**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F9** Words inserted by S.I. 1988/1846 (N.I. 16), art. 12, **Sch. para. 4(1)(a)**
- F10** S. 48(2) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), **Sch. 2**, para. 7(a); S.R. 1996/122, **art.2**
- F11** Words substituted by S.I. 1988/1846 (N.I. 16), art. 12, **Sch. para. 4(1)(b)**
- F12** S. 48(3) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), **Sch. 2**, para. 7(b); S.R. 1996/122, **art. 2**

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- F13** S. 48(4) repealed (1.5.2004) by Courts Act 2003 (c. 39), ss. 104, 109(3), 110(1), **Sch. 10**; S.I. 2004/1104, **art. 3(f)**
- F14** Words inserted by S.I. 1988/1846 (N.I. 16), art. 12, **Sch. para. 4(1)(c)**
- F15** S. 48(5)(a) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), **Sch. 2**, para. 7(c); S.R. 1996/122, **art.2**
- F16** S. 48(5)(b) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), **Sch. 2**, para. 7(c); S.R. 1996/122, **art. 2**
- F17** S. 48(6A) inserted by S.I. 1988/1846 (N.I. 16), art. 12, **Sch. para. 4(1)(d)**
- F18** Words in s. 48(6A) substituted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), 337(7)(g), **Sch. 36 para. 45(2)**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3); S.I. 2006/3422, **art. 2(c)(i)**
- F19** S. 48(6B) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), 337(7)(g), **Sch. 36 para. 45(3)**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3); S.I. 2006/3422, **art. 2(c)(i)**
- F20** Words in s. 48(6B)(b) substituted (1.8.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), 337(7)(g), **Sch. 36 Pt. 4 para. 45(1)(2)** (as amended by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 8, 53, **Sch. 1 para. 4**; S.I. 2007/2045, **art. 2(2)(3)(h)(q)** (with art. 3); with saving (N.I.) (at the end of 31.7.2007) by The Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007 (S.I. 2007/2259), **art. 2**

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

- C2** S. 48 amended by Northern Ireland (Emergency Provisions) Act 1978 (c. 5, SIF 39:1), **s. 6**  
S. 48 extended (27.8.1991) by Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), **ss. 9(2), 69(1)**
- C3** S. 48 extended (25.8.1996) by 1996 c. 22, **ss. 10(2), 62(1)** (with s. 62(2))  
S. 48 applied (N.I.) (19.2.2001) by 2000 c. 11, ss. 74(2), 128 (with s. 113(1)); S.I. 2001/421, **art. 2** (with art. 3)
- C4** S. 48 applied (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 4(3), 53**; S.I. 2007/2045, **art. 2(2)(3)(d)** (with art. 3)

**49 Sentences imposed and other decisions made by Crown Court.**

- (1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed or made, unless the court otherwise directs.
- (2) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of [<sup>F21</sup>56 days] beginning with the day on which the sentence or other order was imposed or made <sup>F22</sup> . . . .

[<sup>F23</sup>(2A) The power conferred by subsection (1) may not be exercised in relation to any sentence or order if an appeal, or an application for leave to appeal, against that sentence or order has been determined.]

(3) <sup>F24</sup> . . . . .

(4) A sentence or other order shall not be varied or rescinded under this section except by the judge of the Crown Court by whom the sentence or other order was imposed or made.

(5) Subject to subsection (6), where a sentence or other order is varied under this section, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.

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- (6) For the purposes of [<sup>F25</sup>section 16(1)] of the Criminal Appeal Act (time limit for notice of appeal or of application for leave to appeal) [<sup>F26</sup>and for the purposes of paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act.)] the sentence or other order shall be regarded as imposed or made on the day on which it is so varied.
- (7) Crown Court rules—
- (a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictment, provide for extending the period prescribed by subsection (2);
  - (b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by the Crown Court.

#### Textual Amendments

- F21** Words in s. 49(2) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7), [Sch. 8 para. 27\(2\)\(a\)](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 26 (with Sch. 2)
- F22** Words in s. 49(2) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7), [Sch. 8 para. 27\(2\)\(b\)](#) {Sch. 28 Pt. 3}; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 26, 50(3)(b) (with Sch. 2)
- F23** S. 49(2A) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7), [Sch. 8 para. 27\(3\)](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 26 (with Sch. 2)
- F24** S. 49(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 47, 153(7), [Sch. 8 para. 27\(4\)](#) {Sch. 28 Pt. 3}; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 26, 50(3)(b) (with Sch. 2)
- F25** Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(1), [Sch. 4 para. 17](#)
- F26** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 170, 171, [Sch. 15 para. 56](#)

## 50 Right of audience.

- (1) A solicitor of the [<sup>F27</sup>Court of Judicature] may appear in, conduct, defend and address the court in any proceedings in the Crown Court, other than proceedings of such description (if any) as may from time to time be specified in directions given by the Lord Chief Justice under this section.
- (2) In considering whether to exercise his powers under this section the Lord Chief Justice shall have regard to any rights of audience heretofore exercised by solicitors at any trials on indictment and to any other circumstances affecting the public interest.
- (3) Any direction given under this section may be subject to such conditions and restrictions as appear to the Lord Chief Justice to be necessary or expedient.
- (4) Nothing in this section shall take away or affect the inherent powers of any court or judge to confer a right of audience.

#### Textual Amendments

- F27** Words in s. 50(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 6\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

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## **51 Process to compel appearance before Crown Court.**

- (1) Any condition of a recognizance to appear before the Crown Court and any summons or order to appear before the Crown Court may be framed so as to require appearance at such time and place as may be directed by the Crown Court, and, if a time or place is specified in the condition, summons or order, it may be varied by any subsequent direction of the Crown Court.
- (2) Where an indictment has been presented although the person charged has not been committed for trial, the Crown Court may issue a summons requiring that person to appear before the Crown Court or a warrant for his arrest.
- (3) Where any person charged with or convicted of an offence has entered into a recognizance conditioned for his appearance before the Crown Court and in breach of that recognizance fails to appear, the Crown Court may, without prejudice to the enforcement of the recognizance, issue a warrant for his arrest.
- (4) The Crown Court may admit to bail, or direct the admission to bail of, any person—
  - (a) who has been committed in custody for appearance before the Crown Court [<sup>F28</sup>or in relation to whose case a notice of transfer has been given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988][<sup>F29</sup>(serious and complex fraud) or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995 (certain cases involving children)]; or
  - (b) who is in the custody of the Crown Court pending the disposal of his case by the Crown Court,and the time during which a person is admitted to bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.
- (5) Provision may be made by Crown Court rules as respects the powers of the Crown Court relating to bail, including any provision—
  - (a) allowing the court, instead of requiring a person to enter into a recognizance, to consent to his giving other security;
  - (b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates’ court <sup>F30</sup>. . . or, if the rules so provide, a person of such other description as is specified in the rules;
  - (c) prescribing the manner in which a recognizance is to be entered into or other security given and the persons by whom and the manner in which the recognizance or security may be enforced;
  - (d) authorising the recommittal, in such cases and by such courts <sup>F30</sup>. . . as may be prescribed by the rules, of persons released from custody in pursuance of the powers;
  - (e) making provision as to the varying or dispensing with requirements as to sureties and the postponement of taking recognizances.
- (6) Any reference in any statutory provision to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of subsection (5)(a) or otherwise.
- (7) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—
  - (a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station, and



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- (b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement.
- (8) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court shall be brought forthwith before either the Crown Court or any magistrates' court, and if he is brought before a magistrates' court—
- (a) the court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court; and
  - (b) if the warrant is endorsed for bail but the person in custody is unable to satisfy the conditions endorsed, the magistrates' court may vary those conditions if satisfied that it is proper to do so.

#### Textual Amendments

**F28** Words inserted by S.I. 1988/1846 (N.I. 16), art. 12, Sch. para. 4(2)

**F29** S. 51(4)(a) amended (8.4.1996) by S.I. 1995/757(N.I. 3), art. 6(1), Sch. 2 para. 8; S.R. 1996/122 art. 2

**F30** Words in s. 51(5) repealed (1.4.2005) by 2002 c. 26, ss. 86, 87(1), Sch. 13; S.R. 2005/109, art. 2, Sch.

#### [<sup>F31</sup>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
  - [<sup>F32</sup>(b) it is in the interests of justice to issue a summons under this section to secure the attendance of that person to give evidence or to 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 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.



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- (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.]

#### Textual Amendments

- F31** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))
- F32** S. 51A(1)(b) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 169(5), 178(8); S.I. 2005/1521, art. 3(bb)

#### <sup>F33</sup>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.

#### Textual Amendments

**F33** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s.78 (1))

#### <sup>F34</sup>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.

#### Textual Amendments

**F34** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F35</sup>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;

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- (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.
- (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.

#### Textual Amendments

**F35** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c.25, ss. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F36</sup>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.

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#### Textual Amendments

**F36** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, ss. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F37</sup> 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.
- (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

**F37** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25 s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F38</sup> 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.

*Status: Point in time view as at 30/06/2011.*

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### Textual Amendments

**F38** Ss. 51A- 51H inserted (4.7.1996) by virtue of 1996 c.25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

### <sup>F39</sup> 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 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”.

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- (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.

#### Textual Amendments

**F39** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act)(with s. 78(1))

## 52 Crown Court rules.

- [<sup>F40</sup>(1) Subject to any statutory provision, Crown Court rules may be made in accordance with section 53A for the purpose of regulating and prescribing—]
- (a) the practice and procedure to be followed in the Crown Court; and
- (b) the form and content of indictments,
- and in this or any other statutory provision having effect in Northern Ireland “Crown Court rules” means rules so made.
- (2) Sections 1 and 2 of the <sup>M2</sup>Indictments Act (Northern Ireland) 1945 shall cease to have effect on such date as may be appointed in Crown Court rules made for the purpose mentioned in subsection (1)(b).

#### Textual Amendments

**F40** Words in s. 52(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 26; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

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

**C5** S. 52 extended (4.7.1996) by 1996 c. 25, s. 79, Sch. 4 para.12 (with s.78(1))

#### Marginal Citations

**M2** 1945 c. 16 (N.I.)

## 53 Crown Court Rules Committee.

- (1) There shall be a committee known as the Northern Ireland Crown Court Rules Committee (in this Act referred to as the Crown Court Rules Committee) which, subject to section 54(2), shall consist of—
- (a) the Lord Chief Justice who shall be chairman;
- (b) two judges of the High Court or the Court of Appeal nominated from time to time by the Lord Chief Justice;
- (c) two county court judges nominated by the [<sup>F41</sup>Lord Chief Justice];
- (d) a resident magistrate nominated by the [<sup>F41</sup>Lord Chief Justice];
- (e) the Master (Queen’s Bench and Appeals);

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- (f) a practising member of the Bar of Northern Ireland nominated by the Lord Chancellor;
- (g) one other practising member of the Bar of Northern Ireland nominated by the Council thereof;
- (h) the president of the Incorporated Law Society of Northern Ireland or a member of the Council thereof nominated by him;
- (i) a practising solicitor nominated by that Council;

and shall have the functions conferred on it in relation to the making of Crown Court rules by section 52.

[<sup>F42</sup>(1A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (1)(c) or (d)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

(2) The [<sup>F43</sup>joint secretaries to the Crown Court Rules Committee shall be the Principal Secretary to the Lord Chief Justice and a person designated by the Lord Chancellor; and whichever of them is nominated by the Lord Chancellor] shall, in relation to Crown Court rules, be the responsible officer within the meaning of [<sup>F44</sup>Articles 5 and 7 of the Statutory Rules (Northern Ireland) Order 1979].

(3) Sections 54(2), (3), (4) and (6), 55(3) and [<sup>F45</sup>56(1)(2) and (2A)] shall apply to the Crown Court Rules Committee and Crown Court rules as if references in those provisions to the Rules Committee and rules of court included references to the Crown Court Rules Committee and Crown Court rules respectively.

#### Textual Amendments

- F41** Words in s. 53(1)(c)(d) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 27\(2\)](#); [S. I. 2006/1014, art. 2\(a\)](#), Sch. 1 para. 12(a)
- F42** S. 53(1A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 27\(3\)](#); [S. I. 2006/1014, {art. 2\(a\), Sch. 1 para. 12\(a\)}](#)
- F43** Words in s. 53(2) substituted (15.10.2002) by [2002 c. 26, s. 17\(2\)](#); [S.R. 2002/319, art. 2, Sch.](#)
- F44** Words substituted by [S.I. 1979/1573 \(N.I. 12\), art. 11\(1\), Sch. 4 para. 22 \(a\)](#)
- F45** Words substituted by virtue of [S.I. 1979/1573 \(N.I. 12\), Sch. 4 para. 22\(a\)](#) and [Administration of Justice Act 1982 \(c. 53, SIF 38\), Sch. 8 para. 4](#)

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

- C6** S. 53(1)(f) transfer of functions (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 17 para. 6\(b\)](#) (with arts. 28-31)
- C7** S. 53(2) transfer of functions (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 17 para. 6\(b\)](#) (with arts. 28-31)

#### [<sup>F46</sup> 53A Making of Crown Court rules

(1) It is for the Crown Court Rules Committee to make Crown Court rules.

[ For the purposes of this section, “relevant authority” means—

[<sup>F47</sup>(1A) (a) in relation to Crown Court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and



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- (b) otherwise, the Department of Justice;  
and for the purposes of this subsection “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.]
- (2) After making Crown Court rules the Committee must submit them to the [F48relevant authority].
- (3) The [F48relevant authority] must allow or disallow Crown Court rules submitted to [F49it].
- (4) Crown Court rules have effect only if allowed by the [F48relevant authority].
- (5) If the [F48relevant authority] disallows Crown Court rules, the [F48relevant authority] must give the Committee written reasons why [F50it] has disallowed them.
- (6) Subsection (7) applies if the [F48relevant authority] gives the Committee written notice that [F50it] thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.
- (7) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.
- (8) Those Crown Court rules must be—
- (a) made within a reasonable period after the [F48relevant authority] gives notice under subsection (6);
  - (b) made in accordance with this section.]

#### Textual Amendments

- F46** S. 53A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 28**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F47** S. 53A(1A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 14(a)** (with arts. 28-31)
- F48** Words in s. 53A substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 14(b)** (with arts. 28-31)
- F49** Word in s. 53A(3) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 14(c)** (with arts. 28-31)
- F50** Word in s. 53A(5)(6) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 14(d)** (with arts. 28-31)

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

- C8** S. 53A transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 17 para. 6(c)** (with arts. 28-31)

**Status:**

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