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Status: Point in time view as at 09/11/2009.
Changes to legislation: Judicature (Northern Ireland) Act 1978, Section 51D is up to date with all changes known to
be in force on or before 01 September 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)
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Judicature (Northern Ireland) Act 1978

1978 CHAPTER 23

PART IV

THE CROWN COURT

F1 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.

(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

F1   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))

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