



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART IV

WITNESSES AND EVIDENCE

Procuring attendance of witness

97 Summons to witness and warrant for his arrest.

- (1) Where a justice of the peace ^{F1} . . . is satisfied that any person in England or Wales is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, ^{F2} . . . at the summary trial of an information or hearing of a complaint by [^{F3}a magistrates' court ^{F4} . . .] and that that person will not voluntarily attend as a witness or will not voluntarily produce the document or thing, the justice shall issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence or to produce the document or thing.
- (2) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in subsection (1) above, and also that it is probable that a summons under that subsection would not procure the attendance of the person in question, the justice may instead of issuing a summons issue a warrant to arrest that person and bring him before such a court as aforesaid at a time and place specified in the warrant; but a warrant shall not be issued under this subsection where the attendance is required for the hearing of a complaint.
- [^{F5}(2A) A summons may also be issued under subsection (1) above if the justice is satisfied that the person in question is outside the British Islands but no warrant shall be issued under subsection (2) above unless the justice is satisfied by evidence on oath that the person in question is in England or Wales.]
- [^{F6}(2B) A justice may refuse to issue a summons under subsection (1) above in relation to the summary trial of an information if he is not satisfied that an application for the summons was made by a party to the case as soon as reasonably practicable after the accused pleaded not guilty.]

Status: Point in time view as at 01/04/2005. This version of this provision has been superseded.

Changes to legislation: Magistrates' Courts Act 1980, Section 97 is up to date with all changes known to be in force on or before 27 June 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)

- (2C) In relation to the summary trial of an information, subsection (2) above shall have effect as if the reference to the matters mentioned in subsection (1) above included a reference to the matter mentioned in subsection (2B) above.]
- (3) On the failure of any person to attend before a magistrates' court in answer to a summons under this section, if—
- (a) the court is satisfied by evidence on oath that he is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and
 - (b) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons, and that a reasonable sum has been paid or tendered to him for costs and expenses; and
 - (c) it appears to the court that there is no just excuse for the failure,
- the court may issue a warrant to arrest him and bring him before the court at a time and place specified in the warrant.
- (4) If any person attending or brought before a magistrates' court refuses without just excuse to be sworn or give evidence, or to produce any document or thing, the court may commit him to custody until the expiration of such period not exceeding [^{F7}one month] as may be specified in the warrant or until he sooner gives evidence or produces the document or thing [^{F8}or impose on him a fine not exceeding [^{F9}£2,500] or both].
- [^{F10}(5) A fine imposed under subsection (4) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.]

Textual Amendments

- F1** Words in s. 97(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 230(a), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**
- F2** Words in s. 97(1) repealed (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the repealing Act) by 1996 c. 25, ss. 47, 80, Sch. 1 Pt. I para. 7(a), **Sch. 5 para. 2** Table10 (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F3** Words in s. 97(1) substituted (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the substituting Act) by 1996 c. 25, s. 47, **Sch. 1 para. 7(b)** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F4** Words in s. 97(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 230(b), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**
- F5** S. 97(2A) inserted (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 31(1), **Sch. 4 para. 2**; S.I. 1991/1072, art. 2(a), **Schedule Pt. I**.
- F6** S. 97(2A)(2B) inserted (4.7.1996, with effect as mentioned in s. 51(2)(3) of the inserting Act) by 1996 c. 25, s. 51(1) (with s. 78(1)); S.I. 1997/682, **art. 2(1)(b)**
- F7** Words substituted by Contempt of Court Act 1981 (c. 49, SIF 39:3), s. 14(5), **Sch. 2 Pt. III para. 7**
- F8** Words added by Contempt of Court Act 1981 (c. 49, SIF 39:3), s. 14(5), **Sch. 2 Pt. III para. 7**
- F9** Word in s. 97(4) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3)(a), Sch. 4 Pt. I, **Sch. 12 para. 6** (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F10** S. 97(5) substituted (20.9.1993) by 1993 c. 36, s. 65(3), **Sch. 3 para. 6(3)**; S.I. 1993/1968, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

- C1** S. 97 extended (14.10.1991) by S.I. 1991/1395, **rule 33**
S. 97 extended (14.10.1991) by S.I. 1991/1991, **rule 16(2)**
- C2** S. 97 extended by Licensing Act 1964 (c. 26, SIF 68A:1), s. 196A (as inserted by Licensing Act 1988 (c.17, SIF 68A:1), s. 19, **Sch. 3 para. 19**)

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- C3** S. 97 applied (5.4.1993) by S.I. 1993/617, rule 3, **Sch. 2 para. 13**
- C4** S. 97(1) extended by Licensing (Occasional Permissions) Act 1983 (c. 24, SIF 68A:1), **s. 2(7)**
S. 97(1) applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule5(2)(3)(4)(e)**
- C5** S. 97(1)(3)(4) extended (1.1.1996) by 1995 c. 21, **ss. 268(3), 316(2)** (with s. 312(1))
- C6** S. 97(3) extended by Licensing (Occasional Permissions) Act 1983 (c. 24, SIF 68A:1), **s. 2(7)**
- C7** S. 97(4) extended by Licensing (Occasional Permissions) Act 1983 (c. 24, SIF 68A:1), **s. 2(7)**

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