



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART IV

#### WITNESSES AND EVIDENCE

##### *Procuring attendance of witness*

#### [<sup>F1</sup>97A Summons or warrant as to committal proceedings.

- (1) Subsection (2) below applies where a justice of the peace <sup>F2</sup> . . . is satisfied that—
  - (a) any person in England or Wales is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings before a magistrates' court inquiring into an offence as examining justices, [<sup>F3</sup>and]
  - [<sup>F4</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 other exhibit, <sup>F5</sup> . . . ]
  - (c) <sup>F5</sup> . . . . .
- (2) In such a case the justice shall issue a summons directed to that person requiring him to attend before a justice at the time and place appointed in the summons to have his evidence taken as a deposition or to produce the document or other exhibit.
- (3) 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 subsection (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the person concerned and bring him before a justice at the time and place specified in the warrant.
- (4) A summons may also be issued under subsection (2) above if the justice is satisfied that the person concerned is outside the British Islands, but no warrant may be issued under subsection (3) above unless the justice is satisfied by evidence on oath that the person concerned is in England or Wales.

*Status: Point in time view as at 29/03/2011. This version of this provision has been superseded.*

*Changes to legislation: Magistrates' Courts Act 1980, Section 97A is up to date with all changes known to be in force on or before 13 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)*

- (5) If—
- (a) a person fails to attend before a justice in answer to a summons under this section,
  - (b) the justice is satisfied by evidence on oath that he is likely to be able to make a statement or produce a document or other exhibit as mentioned in subsection (1)(a) above,
  - (c) 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
  - (d) it appears to the justice that there is no just excuse for the failure,
- the justice may issue a warrant to arrest him and bring him before a justice at a time and place specified in the warrant.
- (6) Where—
- (a) a summons is issued under subsection (2) above or a warrant is issued under subsection (3) or (5) above, and
  - (b) the summons or warrant is issued with a view to securing that a person has his evidence taken as a deposition,
- the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before a magistrates' court begins to inquire into the offence concerned as examining justices.
- (7) If any person attending or brought before a justice in pursuance of this section refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—
- (a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;
  - (b) impose on him a fine not exceeding £2,500.
- (8) A fine imposed under subsection (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (9) If in pursuance of this section a person has his evidence taken as a deposition, the [F6designated officer for] the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor.
- (10) If in pursuance of this section a person produces an exhibit which is a document, the [F6designated officer for] the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor.
- (11) If in pursuance of this section a person produces an exhibit which is not a document, the [F6designated officer for] the justice concerned shall as soon as is reasonably practicable inform the prosecutor of the fact and of the nature of the exhibit.]

#### Textual Amendments

- F1** S. 97A inserted (4.7.1996, with effect as mentioned in Sch. 1 Pt. III para. 39 of the inserting Act) by 1996 c. 25, s. 47, **Sch. 1 Pt. I para. 8** (with s. 78(1)); S.I. 1997/683, **art. 1(2)**
- F2** Words in s. 97A(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 231(2)(a), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**

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- F3** Words in s. 97A(1)(a) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 231(2)(b)**; S.I. 2005/910, **art. 3(y)**
- F4** S. 97A(1)(b) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. **169(3)**, 178; S.I. 2005/1521, **art. 3** (subject to art. 3(4)(5))
- F5** S. 97A(1)(c) and the preceding word "and" repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 231(2)(c), **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**
- F6** Words in s. 97A(9)-(11) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 231(3)**; S.I. 2005/910, **art. 3(y)**

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