

Status: Point in time view as at 01/07/2005.

Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Power of justice to take depositions etc. is up to date with all changes known to be in force on or before 02 July 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)

SCHEDULES

SCHEDULE 3

PROCEDURE WHERE PERSONS ARE SENT FOR TRIAL UNDER SECTION 51

Power of justice to take depositions etc.

- 4 (1) Sub-paragraph (2) below applies where a justice of the peace ^{F1} . . . is satisfied that—
- (a) any person in England and Wales (“the witness”) 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 for an offence for which a person has been sent for trial under section 51 of this Act by a magistrates’ court ^{F1} . . . ; and
 - [^{F2}(b) it is in the interests of justice to issue a summons under this paragraph to secure the attendance of the witness to have his evidence taken as a deposition or to produce the document or other exhibit.]
- (2) In such a case the justice shall issue a summons directed to the witness requiring him to attend before a justice at the time and place appointed in the summons, and 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 sub-paragraph (1) above, and also that it is probable that a summons under sub-paragraph (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.
- (4) A summons may also be issued under sub-paragraph (2) above if the justice is satisfied that the witness is outside the British Islands, but no warrant may be issued under sub-paragraph (3) above unless the justice is satisfied by evidence on oath that the witness is in England and Wales.
- (5) If—
- (a) the witness fails to attend before a justice in answer to a summons under this paragraph;
 - (b) the justice is satisfied by evidence on oath that the witness is likely to be able to make a statement or produce a document or other exhibit as mentioned in sub-paragraph (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 the witness and to bring him before a justice at the time and place specified in the warrant.
- (6) Where—

Status: Point in time view as at 01/07/2005.

Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Power of justice to take depositions etc. is up to date with all changes known to be in force on or before 02 July 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)

- (a) a summons is issued under sub-paragraph (2) above or a warrant is issued under sub-paragraph (3) or (5) above; and
 - (b) the summons or warrant is issued with a view to securing that the witness 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 the relevant date.
- (7) If any person attending or brought before a justice in pursuance of this paragraph 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 sub-paragraph (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 paragraph a person has his evidence taken as a deposition, the [^{F3}designated officer for] the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor and the Crown Court.
- (10) If in pursuance of this paragraph a person produces an exhibit which is a document, the [^{F3}designated officer for] the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor and the Crown Court.
- (11) If in pursuance of this paragraph a person produces an exhibit which is not a document, the [^{F3}designated officer for] the justice concerned shall as soon as is reasonably practicable inform the prosecutor and the Crown Court of that fact and of the nature of the exhibit.
- (12) In this paragraph—
- “prescribed” means prescribed by [^{F4}Criminal Procedure Rules];
 - “the relevant date” has the meaning given by paragraph 1(2) above.

Textual Amendments

- F1** Words in Sch. 3 para. 4(1) omitted (1.4.2005) by virtue of [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, **Sch. para. 61(a)**
- F2** Sch. 3 para. 4(1)(b) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. **169(4)**, 178(8); S.I. 2005/1521, art. **3(1)(bb)**
- F3** Words in Sch. 3 para. 4(9)-(11) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, **Sch. para. 61(b)**
- F4** Words in Sch. 3 para. 4(12) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, **Sch. para. 37(3)** (with art. 2(2))

Commencement Information

- I1** Sch. 3 para. 4 wholly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), art. **2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 4 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), art. **4(2)**; Sch. 3 para. 4 in force at 15.1.2000 to the extent that it is not already in force by [S.I. 2000/3283](#), art. **2** (subject to transitional provisions in art. 3)

Status:

Point in time view as at 01/07/2005.

Changes to legislation:

Crime and Disorder Act 1998, Cross Heading: Power of justice to take depositions etc. is up to date with all changes known to be in force on or before 02 July 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.