



# Criminal Procedure (Attendance of Witnesses) Act 1965

## 1965 CHAPTER 69

An Act to make new provision for securing the attendance of witnesses in criminal proceedings before courts of assize and quarter sessions; to abolish the binding over of prosecutors for the purpose of such proceedings; to restrict the issue of subpoenas for securing the attendance of witnesses before magistrates' courts; and for connected purposes. [5th August 1965]

### Textual Amendments

**F1** Act amended (E.W.) by [Criminal Justice Act 1987 \(c. 38, SIF 39:1\)](#), **s. 5(8)**

### Modifications etc. (not altering text)

- C1** Act modified (prosp.) by [War Crimes Act 1991 \(c. 13, SIF 39:4\)](#), s. 1(4), **Sch. Part I para.4**
- C2** Act amended (E.W.) (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 53(5), **Sch. 6 para. 3**; [S.I. 1992/333, art. 2\(2\)](#), **Sch. 2**
- C3** By [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(1), **Sch. 12 para.23**; [S.I. 1991/2208, art. 2\(1\)](#), **Sch.1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by [S.I. 1992/333, art. 2\(2\)](#), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

### Commencement Information

**I1** Act wholly in force at 5.10.1965 see [s. 10\(4\)](#)

**F2**<sup>1</sup> .....

### Textual Amendments

**F2** [S. 1](#) repealed (4.7.1996) by [1996 c. 25, s. 65\(1\)\(4\), 80, Sch. 5 para. 2](#) (with [s 78\(1\)](#)); [S.I. 1997/683, art. 1](#)

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

### *[<sup>F3</sup> Issue of witness summons on application*

#### **Textual Amendments**

**F3** Ss. 2-2E and relevant cross-headings substituted for s. 2 (4.7.1996, with effect at 1.4.1999, (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

## **2 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
  - (b) the person will not voluntarily attend as a witness or will not voluntarily 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 [<sup>F4</sup>, or sent for trial under section 51 of the Crime and Disorder Act 1998,] 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 a bill of indictment has been preferred under the authority of section 2(2)(b) of the <sup>M1</sup>Administration of Justice (Miscellaneous Provisions) Act 1933 (bill preferred by direction of Court of Appeal, or by direction or with consent of judge) an application must be made as soon as is reasonably practicable after the bill was preferred.
- (7) An application must be made in accordance with [<sup>F5</sup>Criminal Procedure Rules]; and different provision may be made for different cases or descriptions of case.
- (8) [<sup>F5</sup>Criminal Procedure 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;

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

- (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 [<sup>F6</sup>Criminal Procedure Rules] by virtue of subsection (8)(c) above 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) above—
- (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

- F4** Words in s. 2(4) inserted (4.1.1999 in relation to specified areas and 15.1.2001 otherwise) by 1998 c. 37, s. 119, **Sch. 8 para. 8**; S.I. 1998/2327, art. 4(2), **Sch. 2**; S.I. 2000/3283, **art. 2**
- F5** Words in s. 2(7)(8) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 126(a)**; S.I. 2004/2066, art. 2(c)(vi) (with art. 3)
- F6** Words in s. 2(9) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 126(a)**; S.I. 2004/2066, art. 2(c)(vi) (with art. 3)

#### Marginal Citations

- M1** 1933 c. 36.

## 2A <sup>F7</sup> Power to require advance production.

A witness summons which is issued under section 2 above and which requires a person to produce a document or thing as mentioned in section 2(2) above 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 2(2) above, for inspection by the person applying for the summons.

#### Textual Amendments

- F7** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, **art. 2**; S.I. 2000/1968, **art. 2**

*Status: Point in time view as at 01/09/2004.*

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## 2B 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 2A above,
  - (b) the person applying for the summons concludes that a requirement imposed by the summons under section 2(2) above 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 [<sup>F8</sup>Criminal Procedure Rules]; and different provision may be made for different cases or descriptions of case.
- (3) [<sup>F8</sup>Criminal Procedure 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

**F8** Words in s. 2B(2)(3) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 126(b); S.I. 2004/2066, art. 2(c)(vi) (with art. 3)

## 2C Application to make summons ineffective.

- (1) If a witness summons issued under section 2 above 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) above it is immaterial—
- (a) whether or not [<sup>F9</sup>Criminal Procedure Rules] require the person to be served with notice of the application to issue the summons;
  - (b) whether or not [<sup>F9</sup>Criminal Procedure Rules] enable the person to be present or represented at the hearing of the application.
- (3) In subsection (1)(b) above “ served ” means—
- (a) served in accordance with [<sup>F9</sup>Criminal Procedure 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 court to which the application is made under this section, 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.

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

- (5) An application under this section must be made in accordance with [<sup>F10</sup>Criminal Procedure Rules]; and different provision may be made for different cases or descriptions of case.
- (6) [<sup>F10</sup>Criminal Procedure 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) [<sup>F11</sup>Criminal Procedure 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) above shall be taxed by the proper officer of the court, 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

- F9** Words in s. 2C(2)(3) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 126(c)**; S.I. 2004/2066, art. 2(c)(vi) (with art. 3)
- F10** Words in s. 2C(5)(6) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 126(c)**; S.I. 2004/2066, art. 2(c)(vi) (with art. 3)
- F11** Words in s. 2C(7) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 126(c)**; S.I. 2004/2066, art. 2(c)(vi) (with art. 3)

#### <sup>F12</sup>*Issue of witness summons of court's own motion*

#### Textual Amendments

- F12** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted for s. 2 (4.7.1996 with effect at 1.4.1999 (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, s. 66(2)(7) (with s. 78(1)); S.I. 1999/718, art. 2; S.I. 2000/1968, art. 2

#### **2D** <sup>F13</sup> **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.

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

### Textual Amendments

- F13** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted (4.7.1996 with effect at 1.4.1999 as appointed day by S.I. 1999/718, **art. 2**) for s. 2 by 1996 c. 25, **s. 66(2)(7)** (with s. 78(1)); S.I. 1999/718, **art. 2**

## 2E <sup>F14</sup> Application to make summons ineffective.

- (1) If a witness summons issued under section 2D above 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 [<sup>F15</sup>Criminal Procedure Rules]; and different provision may be made for different cases or descriptions of case.
- (4) [<sup>F15</sup>Criminal Procedure 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

- F14** Ss. 2-2E and relevant cross-headings substituted for s. 2 (4.7.1996, with effect at 1.4.1999, (E.W.) and 21.8.2000 (N.I.)) by 1996 c. 25, **s. 66(2)(7)** (with s. 78(1)); S.I. 1999/718, **art. 2**; S.I. 2000/1968, **art. 2**
- F15** Words in s. 2E(3)(4) substituted (1.9.2004) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 126(d)**; S.I. 2004/2066, **art. 2(c)(vi)** (with **art. 3**)

## <sup>F16</sup> Other provisions

### Textual Amendments

- F16** Ss. 2-2E, the cross heading before s. 2, the cross heading before s. 2D and the cross heading following s. 2E substituted (4.7.1996 with effect at 1.4.1999 as appointed day by S.I. 1999/718) for s. 2 by 1996 c. 25, **s. 66(2)(7)** (with s. 78(1)); S.I. 1999/718, **art. 2**

*Status: Point in time view as at 01/09/2004.*

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### 3 Punishment for disobedience to witness order or witness summons.

- (1) Any person who without just excuse disobeys a <sup>F17</sup> . . . witness summons requiring him to attend before any court shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt had been committed in the face of the court.
- [<sup>F18</sup>(1A) Any person who without just excuse disobeys a requirement made by any court under section 2A above shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt had been committed in the face of the court.]
- (2) No person shall by reason of [<sup>F19</sup>any disobedience mentioned in subsection (1) or (1A) above] be liable to imprisonment for a period exceeding three months.
- (3) . . . . . <sup>F20</sup>

#### Textual Amendments

- F17** Words in s. 3(1) repealed (4.7.1996) by 1996 c. 25, s. 65(2)(a), (4), 80, Sch. 5 para. 2 (with s 78(1))
- F18** S. 3(1A) inserted (4.7.1996) by 1996 c. 25, s. 66(3)(7) (with s 78(1))
- F19** Words in s. 3(2) substituted (4.7.1996) by 1996 c. 25, s. 66(4)(7) (with s 78(1))
- F20** Ss. 3(3), 5, 6, 7(1) repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. IV

### 4 Further process to secure attendance of witness.

- (1) If a judge of the [<sup>F21</sup>Crown Court] is satisfied by evidence on oath that a witness in respect of whom a <sup>F22</sup> . . . witness summons is in force is unlikely to comply with the <sup>F22</sup> . . . summons, the judge may issue a warrant to arrest the witness and bring him before the court before which he is required to attend:  
Provided that a warrant shall not be issued under this subsection <sup>F23</sup> . . . unless the judge is satisfied by such evidence as aforesaid that the witness is likely to be able to give [<sup>F24</sup>evidence likely to be] material evidence or produce any document or thing likely to be material evidence in the proceedings.
- (2) Where a witness who is required to attend before [<sup>F25</sup>the Crown Court] by virtue of <sup>F26</sup> . . . a witness summons fails to attend in compliance with the <sup>F26</sup> . . . summons, that 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) above, issue a warrant to arrest him and bring him before the court.
- (3) A witness brought before a 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 3 of this Act; and where a witness attends a 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 as aforesaid.

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

**Textual Amendments**

- F21** Words in s. 4(1) substituted (4.7.1996 with effect as mentioned in S.I. 1999/716, **art. 2**) by 1996 c. 25, **s. 67** (with s 78(1)); S.I. 1999/716, **art. 2**
- F22** Words in s. 4(1) repealed (4.7.1996) by 1996 c. 25, **ss. 65(2)(b)**, (4), 80, Sch. 5 para. 2 (with s 78(1)); S.I. 1997/683, **art. 1**
- F23** Words in s. 4(1) proviso. repealed (4.7.1996) by 1996 c. 25, **ss. 65(2)(c)**, (4), 80, Sch. 5 para. 2 (with s 78(1)); S.I. 1997/683, **art. 1**
- F24** Words in s. 4(1) inserted (4.7.1996) by 1996 c. 25, **s. 66(5)(7)** (with s 78(1))
- F25** Words substituted by Courts Act 1971 (c. 23 Sch. 8 para. 45(4))
- F26** Words in s. 4(2) repealed (4.7.1996) by 1996 c. 25, **s. 65(2)(d)**, (4), 80, Sch. 5 para. 2 (with s 78(1)); S.I. 1997/683, **art. 1**

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

- C4** S. 4 amended by Courts Act 1971 (c. 23), **Sch. 8 para. 45(3)**

**5, 6.** ..... **F27**

**Textual Amendments**

- F27** Ss. 3(3), 5, 6, 7(1) repealed by Courts Act 1971 (c. 23), **Sch. 11 Pt. IV**

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- (1) ..... **F28**
- (2) ..... **F29**

**Textual Amendments**

- F28** Ss. 3(3), 5, 6, 7(1) repealed by Courts Act 1971 (c. 23), **Sch. 11 Pt. IV**
- F29** S. 7(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

**8 Abolition of subpoenas in certain proceedings.**

No subpoena ad testificandum or subpoena duces tecum shall issue after the commencement of this Act in respect of any proceedings for the purpose of which a witness summons may be issued under section 2 of this Act or in respect of any proceedings for the purpose of which a summons may be issued under [<sup>F30</sup>section 97 of the Magistrates' Courts Act 1980](process for attendance of witnesses in magistrates' courts).

**Textual Amendments**

- F30** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 7 para. 56**

**9** ..... **F31**



*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

### Textual Amendments

**F31** S. 9 repealed by Northern Ireland Constitution Act 1973 (c. 36), Sch. 6 Pt. I

## 10 †Short title, consequential amendments and repeals, commencement, interpretation and extent.

- (1) This Act may be cited as the Criminal Procedure (Attendance of Witnesses) Act 1965.
- (2) ..... <sup>F32</sup>
- (3) The enactments mentioned in Part I of Schedule 2 to this Act shall have effect subject to the amendments specified in the second column of that part, . . . <sup>F33</sup>.
- (4) This Act shall come into force at the expiration of the period of two months beginning with the date on which it is passed.
- (5) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by any other enactment.
- (6) ..... <sup>F34</sup>so much of this section and Schedule 2 to this Act as relates to the <sup>M2</sup>Writ of Subpoena Act 1805 extends to Scotland and Northern Ireland, but, save as aforesaid, this Act does not extend to Scotland and Northern Ireland.

### Extent Information

**E1** S. 10(6): by virtue of the substitution (4.7.1996) of ss. 2-2E for s. 2 by 1996 c. 25, s. 66(2)(7), ss. 2-2E extend to England, Wales and Northern Ireland

### Textual Amendments

**F32** S. 10(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

**F33** S. 10(3) residue repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

**F34** Words repealed by Northern Ireland Constitution Act 1973 (c. 36), Sch. 6 Pt. I

### Modifications etc. (not altering text)

**C5** Unreliable marginal note

**C6** The text of s. 10(3) and Sch. 2 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as indicated does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M2** 1805 c. 92.

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

# SCHEDULES

## F35 SCHEDULE 1

### Textual Amendments

**F35** Schedule 1 repealed (4.7.1996) by 1996 c. 25, ss. 66(6)(7), 80, Sch. 5 para. 2 (with s 78(1))

## SCHEDULE 2

Section 10.

### CONSEQUENTIAL AMENDMENTS AND REPEALS

#### Part I

### Modifications etc. (not altering text)

**C7** The text of s. 10(3) and Sch. 2 Pt. I is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as indicated does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The Writ of Subpoena Act 1805.

In sections 3 and 4 references to a writ of subpoena requiring the appearance of a person to give evidence shall be construed as including references to a witness summons under section 2 of this Act.

45 Geo. 3. c. 92.

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15 & 16 Geo. 5. c. 86

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*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965. (See end of Document for details)*

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**Textual Amendments**

- F41** Entries repealed by [Courts Act 1971 \(c. 23\)](#), [s. 56\(4\) Sch. 11](#), Pt. IV
- F42** Entries in Sch. 2 Pt. I repealed (4.7.1996) by 1996 c. 25, ss. 68, 80, Sch. 2 para. 7, [Sch. 5 para. 11](#) (with [s 78\(1\)](#))
- F43** In Sch. 2 Pt. I the entry relating to the Magistrates' Courts Act 1952 repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

*Part II . . . <sup>F44</sup>*

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**Textual Amendments**

- F44** [Sch. 2 Pt. II](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

**Status:**

Point in time view as at 01/09/2004.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Procedure (Attendance of Witnesses) Act 1965.