
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART V

CRIMINAL JURISDICTION AND PROCEDURE

Provisions applying to preliminary investigations and preliminary inquiries

Binding over complainant and witnesses to attend trial

39.—(1) A magistrates' court conducting a preliminary ^{F1}... inquiry shall bind each witness whose deposition it has taken, other than the accused and any witness merely as to his character, by a recognizance to attend and to give evidence at the trial of any indictment against the accused and, except where the complainant is a public or local authority or an officer of a public or local authority acting as such or is a constable acting as such, it shall bind the complainant by a recognizance to prosecute the accused at the trial.

(2) Where it appears to the court, after taking into account any representation made by or on behalf of the accused or the prosecution, that the attendance at the trial of any witness examined before the court is unnecessary by reason of any statement by the accused, or of the accused having admitted before the court the truth of the charge or of the evidence of the witness being merely of a formal nature, the court shall—

- (a) if the witness has not already been bound over, bind him over conditionally to attend the trial, that is to say, on notice being given to him and not otherwise;
- (b) if the witness has already been bound over, direct that he shall be treated as having been bound over to attend the trial conditionally as aforesaid.

(3) Where in pursuance of paragraph (2) a witness has been, or is treated as having been, bound over conditionally to attend the trial of a person committed for trial, then, at any time before the opening of the Crown Court at which the person is to be tried, if the prosecution or the person committed for trial gives notice to the chief clerk that he wishes the witness to attend at the trial, the chief clerk shall forthwith give notice in writing to the witness that he is required so to attend in pursuance of his recognizance.

(4) A magistrates' court on committing any person for trial shall inform him of his right to require the attendance at the trial of any witness bound over, or treated as bound over, conditionally as aforesaid and of the steps he must take for the purpose of enforcing such attendance.

(5) If any witness on being required to enter into a recognizance under this article refuses to do so, the court may commit him to prison until the trial of the accused or until he sooner enters into the recognizance, so, however, that if the court does not commit the accused for trial or if for any reason it appears to the court that the attendance of the witness will not be necessary it may release the witness.

Changes to legislation: *The Magistrates' Courts (Northern Ireland) Order 1981, Section 39 is up to date with all changes known to be in force on or before 05 March 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) [View outstanding changes](#)*

F1 Words in art. 39(1) repealed (17.10.2022) by [Criminal Justice \(Committal Reform\) Act \(Northern Ireland\) 2022 \(c. 4\)](#), s. 5(2), [Sch. para. 8\(3\)\(g\)](#); S.R. 2022/221, art. 2(d)

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)