

These notes refer to the Serious Organised Crime and Police Act 2005 (c.15) which received Royal Assent on 7th April 2005

SERIOUS ORGANISED CRIME AND POLICE ACT 2005

EXPLANATORY NOTES

BACKGROUND

Part 5: Miscellaneous

Witness summons

62. In October 2003, the Home Office issued the consultation paper ‘Securing the attendance of witnesses in court’¹ which invited views on whether to re-introduce witness orders to help address the high level of witness non-attendance in court. The general view of respondents was that the re-introduction of witness orders might undermine existing initiatives to encourage witnesses to come forward and remain engaged in the criminal justice process. There was, however, general acceptance that an element of compulsion could be helpful in targeted cases. On balance, the overall response to the consultation suggested that the way to achieve this was to make more effective use of the existing witness summons as a pre-emptive measure, based on an individual needs/risk assessment before the trial. A summary of the responses was published in January 2005². At present a witness summons may only be issued where the court is satisfied that a person ‘will not voluntarily attend as a witness’. The Government believes that this threshold is too high; in many cases the test may not be met until the witness has failed to turn up at the appointed time leading to further trial delays. Accordingly, sections 169 and 170 of the Act substitute new tests for courts and courts-martial respectively.

¹ www.homeoffice.gov.uk/justice/legalprocess/witnesses/index.html#Consultation%20Papers

² http://www.homeoffice.gov.uk/docs3/response_witnessattendance.html