1966. No. 257 **[C]**

COUNTY COURT RULES: SUMMONING OF WITNESSES IN CRIMINAL PROCEEDINGS AND APPEALS

RULES, DATED 27TH OCTOBER 1966, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 146 OF THE COUNTY COURTS ACT (NORTHERN IRELAND) 1959(a) ON THE RECOMMENDATION OF THE COUNTY COURT RULES COMMITTEE AND AFTER CONSULTATION WITH THE LORD CHIEF JUSTICE.

I, the Right Honourable William Craig, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 146 of the County Courts Act (Northern Ireland) 1959, on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, do hereby make the Rules hereinafter set forth.

Dated this 27th day of October 1966.

Wm. Craig,
Minister of Home Affairs
for Northern Ireland.

The Ministry of Finance concurs in the making of Rule 6.

Sealed with the Official Seal of the Ministry of Finance this 27th day of October 1966.

(L.S.)

R. R. Butler,
Assistant Secretary.

Summoning of Crown witnesses in proceedings on indictment or at the hearing of certain appeals from magistrates' courts

1.—(1) Where the Crown solicitor for the county or county borough in which an indictment is to be preferred at a county court or Recorder's court or any other person by whom such indictment may lawfully be preferred or someone duly authorised on his behalf desires a person to be summoned as a witness to give oral evidence for the prosecution at the trial of such indictment or to produce at the trial a document or thing in his possession or control, the clerk of the Crown and peace shall on the application of the Crown solicitor or of the said other person or on an application made on his behalf issue a witness summons together with a copy thereof.

(2) Where the Crown solicitor for a county or county borough in which an appeal is brought to a county court or Recorder's court under section 140, section 141 or section 142 of the Magistrates' Courts Act (Northern Ireland) 1964(b) desires a person to be summoned as a witness to give oral evidence or to produce any document or thing in his possession or control at the hearing of the appeal, the clerk of the Crown and peace shall on the application of the Crown solicitor issue a witness summons together with a copy thereof.

(3) A witness summons under this Rule shall be in Form 1 in the Schedule.

(a) 1959, c. 25. (b) 1964, c. 21 (N.I.).

Summoning of witnesses other than on behalf of the Crown in proceedings on indictment or at the hearing of appeals from magistrates' courts under sections 140, 141 *or* 142 *of the Magistrates' Courts Act (Northern Ireland)* 1964

2. Subject to Rule 4, where a person indicted or to be indicted before a county court or Recorder's court or a party to an appeal to a county court or Recorder's court under section 140, section 141 or section 142 of the Magistrates' Courts Act (Northern Ireland) 1964 or his solicitor desires a person to be summoned as a witness to give oral evidence at the trial or the hearing of the appeal or to produce any document or thing in his possession or control, the clerk of the Crown and peace shall on the application of the person indicted or to be indicted or the said party to the appeal or his solicitor issue a summons in Form 2 in the Schedule together with a copy thereof.

Summoning of witnesses at the hearing of appeals under section 143 *of the Magistrates' Courts Act (Northern Ireland)* 1964

3. Subject to Rule 4, where a party to an appeal to a county court or Recorder's court under section 143 of the Magistrates' Courts Act (Northern Ireland) 1964 or his solicitor desires a person to be summoned as a witness to give oral evidence at the hearing of the appeal or to produce any document or thing in his possession or control the clerk of the Crown and peace shall on the application of such party or his solicitor issue a summons in Form 3 together with a copy thereof.

Application to be referred to Judge in certain cases

4. Where the clerk of the Crown and peace has reason to believe that any application for a witness summons under Rule 1, 2 or 3, not being an application made through a solicitor, is frivolous or vexatious, he may refer the application to the Judge and the Judge may thereupon direct the issue of the summons or otherwise deal with the matter as to him seems just.

Production of certain documents to the clerk of the Crown and peace

5. The applicant shall, if the clerk of the Crown and peace so requests, produce a copy of the order committing or returning the accused for trial or the bill of indictment or the notice of appeal, as the case may be.

Stamping

6.—(1) Subject to paragraph (2) each original summons issued under these Rules shall bear an adhesive or impressed stamp to the value of two shillings and sixpence.

(2) No stamp shall be required on a summons issued under Rule 1 on the application of the Crown solicitor for the county or county borough.

Content of summons

7. A witness summons or copy thereof issued under these Rules other than under Rule 1 shall contain the name of one witness only but, where the application is made by a person through his solicitor under Rule 2 or 3, may, as regards the name of the witness, be issued in blank.

Service of witness summons

8. Unless the Judge otherwise directs, the summons shall, a reasonable time before the day fixed for the trial of a person indicted or for the hearing of the appeal, be served—

(*a*) where the summons was issued under Rule 1 and the proceedings were commenced upon the complaint of a member of the Royal Ulster Constabulary, by any other member of the said Constabulary;

(*b*) in any other case, by a process server for the county court division in which the witness resides or by the solicitor acting for the person upon whose application the summons was issued or a solicitor acting as agent for such solicitor or some person over sixteen years of age in the employment of either such solicitor;

by the delivery of a copy of the summons to the witness personally and the person effecting such service shall endorse the summons in Form 4 in the Schedule.

Viaticum for witness other than a Crown witness

9.—(1) Where the summons is served in accordance with Rule 8(*b*) by a process server, any viaticum to be paid or tendered to a witness under paragraph (2) shall be sent to him together with the summons and the copy thereof.

(2) There shall be paid or tendered to a witness (other than a witness summoned upon the application of a Crown solicitor under Rule 1) a viaticum consisting of—

(*a*) such sum, not being less than one shilling, as shall reasonably cover his expenses in travelling to or from the court; and

(*b*) an additional sum of five shillings.

Process server's fee

10. There shall be paid to a process server to whom a witness summons is delivered or sent for service a fee of seven shillings and sixpence.

Interpretation

11. Any reference in these Rules to a clerk of the Crown and peace shall include a reference to an officer of the court authorised by him to issue a witness summons.

Citation and Commencement

12. These Rules may be cited as the County Court (Summoning of Witnesses in Criminal Proceedings and Appeals) Rules (Northern Ireland) 1966 and shall come into force on 1st December 1966.