

Uganda

## Witness Summons (Reciprocal Enforcement) Act Chapter 26

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# Uganda

## Witness Summons (Reciprocal Enforcement) Act Chapter 26

Commenced on 28 March 1969

*[This is the version of this document at 31 December 2000.]*

*[Note: The version of the Act as at 31 December 2000 was revised and consolidated by the Law Reform Commission of Uganda. All subsequent amendments have been researched and applied by Laws.Africa for ULII.]*

**An Act to provide for the enforcement of witness summonses issued by the courts of certain countries in criminal cases and for matters incidental thereto and connected therewith.**

### 1. Interpretation

- (1) In this Act, unless the context otherwise requires—
  - (a) “**court**” means a court of law constituted or established by or under the law of a country to which this Act applies;
  - (b) “**magistrate**” means a chief magistrate or a magistrate grade I;
  - (c) “**summons**” includes any subpoena or other process for requiring the attendance of any person to give evidence before a court or to produce any document before a court.
- (2) Where a power is conferred or a duty is imposed by this Act upon a magistrate endorsing a summons in accordance with [section 3](#), the power may be exercised and the duty may be performed by any other magistrate having jurisdiction over the area of jurisdiction of the magistrate endorsing the summons.

### 2. Application of the Act

Where the Minister is satisfied that reciprocal provision has been or will be made by or under the law of any country for the enforcement of a summons issued by any court in Uganda, he or she may, by statutory order, declare that this Act shall apply in the case of that country subject to such conditions, exceptions and qualifications as may be specified in the order, and this Act shall apply accordingly.

### 3. Backing of summonses

- (1) Where a summons has been issued by a court in a country to which this Act applies, requiring the attendance before that court for the purpose of giving evidence or producing any document in proceedings of a criminal nature pending before the court by a person who is or is believed to be in or on the way to Uganda, the court issuing the summons may forward the summons together with three copies of it to the Director of Public Prosecutions.
- (2) On receipt of the documents referred to in subsection (1), the Director of Public Prosecutions shall forward them to the chief registrar of the High Court together with a request to cause the summons to be served on the person to whom it is addressed and stating the possible whereabouts of the person.
- (3) On receipt of the summons under subsection (2), the chief registrar shall forward it together with the copies of it to the magistrate within whose area of jurisdiction the person to whom the summons is addressed is or is believed to be present.
- (4) Where a magistrate receives a summons under this section, he or she may, if he or she is satisfied—
  - (a) that the summons was issued by a person having lawful authority to issue it;

- (b) that adequate provision has been made or will be made for the payment to the person to whom the summons is addressed of expenses for his or her travel to the court issuing the summons and for his or her return to his or her ordinary place of residence in Uganda or to the place where the summons is served upon him or her under this Act and for his or her subsistence during the journeys and for the period of his or her stay at the place where the court issuing the summons is situate; and
  - (c) that the provisions of this Act have been complied with, endorse the summons and all the copies of the summons.
- (5) An endorsement of a summons by a magistrate under subsection (4) shall be sufficient authority for the service of the summons in the manner prescribed in [section 4](#).

#### 4. Service of summons

- (1) A summons endorsed by a magistrate in accordance with [section 3](#) shall be served by a police officer or other public officer or other person as the magistrate endorsing the summons may direct, and shall be served personally on the person to whom it is addressed by delivering or tendering to him or her a copy of it.
- (2) The person upon whom a summons is served in accordance with subsection (1), shall, if so required by the person serving the summons, sign a receipt for it on the reverse of a copy of the summons; and the person serving the summons shall return the copy to the magistrate who endorsed it, who shall forward it to the chief registrar.
- (3) Where the person summoned is a police officer, the magistrate endorsing the summons may send the summons together with a copy of it to the head of the department or division in which the person to whom the summons is addressed is serving; and the head of department or division shall, upon the receipt of the summons, cause the summons to be served in accordance with subsections (1) and (2) and shall return a copy of the summons to the magistrate who endorsed it after certifying on the reverse of it the time at which and the manner in which the summons was served, and the magistrate shall forward the copy of the summons to the chief registrar.
- (4) Every person who serves a summons in accordance with subsection (2) or (3) shall make an affidavit of service before a commissioner for oaths specifying the time when and the manner in which the summons was served; and the affidavit shall be admissible in evidence, and the statements made in it shall be presumed to be correct unless the contrary is proved.
- (5) Where a summons has been served in accordance with this section, the chief registrar shall send to the court issuing the summons the copy of the summons upon which the person served has signed a receipt or the copy certified in accordance with subsection (3) together with a copy of the affidavit made under subsection (4).

#### 5. Where witness cannot be found

Where the magistrate who has endorsed a summons is satisfied that the witness to whom it is addressed cannot be found within the area of his or her jurisdiction, he or she shall return the summons to the chief registrar with a written report to that effect and containing such other relevant information as he or she may think fit; and upon receipt of the summons and the report, the chief registrar shall return the summons to the court issuing it or, if the chief registrar has reason to believe that the person to whom the summons is addressed may be found in some other area of Uganda, send the summons to the magistrate having jurisdiction over that area.

#### 6. Court may make order excusing attendance

- (1) The person upon whom a summons is served in accordance with this Act may apply to the magistrate who endorsed the summons for an order excusing him or her from compliance with the summons.

- (2) Subject to subsection (5), every application under subsection (1) shall be by chamber summons supported by an affidavit or affidavits specifying the grounds upon which the order is sought.
- (3) Where an application is made under this section, the magistrate may require the applicant to appear before him or her to be examined by him or her, and may examine any witness or witnesses whom the applicant may wish to call on his or her behalf.
- (4) Where an application is made under this section and the magistrate is satisfied that—
  - (a) no adequate provision has been made for the payment to the applicant of expenses for travelling to the court issuing the summons and for his or her return to his or her ordinary place of residence within Uganda or to the place within Uganda where he or she was served with the summons and for his or her subsistence during the journeys and for the period of his or her stay at the place where the court issuing the summons is situate;
  - (b) the person is too ill to travel to the court issuing the summons, or that he or she suffers from a physical or mental disability which would cause him or her great hardship to travel to the court;
  - (c) the summons was not served upon him or her until it was too late for him or her to travel to the court issuing the summons so as to arrive there by the date specified in the summons; or
  - (d) having regard to all the circumstances it would be unreasonable to require the person to comply with the summons, the magistrate may by order excuse the person from complying with the summons.
- (5) Notwithstanding anything in subsection (2), the magistrate may, in cases of urgency, permit an application to be made orally without requiring an affidavit; and in every such case the magistrate shall examine the applicant on oath and record the evidence obtained.
- (6) Every order made under subsection (4) shall be in writing and contain reasons for the making of the order, and shall be signed by the magistrate who shall send a certified copy of it to the chief registrar; and the chief registrar shall forward a copy of the order to the court issuing the summons.
- (7) The provisions of the Criminal Procedure Code Act relating to the powers of the High Court to revise any order made by a magistrate's court shall apply to an order made under this section.

## 7. The Minister may excuse attendance

- (1) Where the Minister is satisfied that it is desirable to do so, he or she may, at any time after a summons has been received by the Director of Public Prosecutions in accordance with [section 3\(1\)](#), whether or not the summons has been served on the person named in the summons under this Act, direct, by an order under his or her hand, that the person named in the summons shall be excused from complying with it.
- (2) Where an order under subsection (1) is made before the summons has been served on the person named in the summons, no further step shall be taken to serve the summons.
- (3) The Director of Public Prosecutions shall forward a copy of an order made under this section to the court issuing the summons.
- (4) An order under subsection (1) shall not be subject to review by any court.

## 8. Penalty for disobedience of summons

Any person who has been served with a summons under this Act and has not been excused from complying with it by an order made under [section 6](#) or [7](#), if he or she fails to obey the summons, commits an offence and is liable on conviction to a fine not exceeding five hundred shillings.