

*Local Court Act*  
PRACTICE DIRECTION

**SUMMONS TO WITNESS FOR SERVICE INTERSTATE**

The following practice direction is issued pursuant to section 21 of the *Local Court Act* and will apply from 1 November 1999.

**BACKGROUND**

There has been some confusion in the past when a party must apply for leave to serve an interstate summons to witness. Under the Service and Execution of Process Act, leave is not required in most circumstances to serve a summons issued out of a State Court anywhere in Australia. (NB. The Supreme Court Rules did contradict this proposal in rule 7.06 however, that has now been amended to only affect the service of summons outside of Australia).

You now only require leave to serve a summons to witness interstate in the following circumstances:

1. When you are requiring a witness to appear in less than 14 days;
2. When you are requiring the return of documents prior to a hearing date.

**PROCEDURE**

In relation to the early return of documents you are referred to the Practice Direction titled "Early Return of Summons for Production" issued on the same date as this Direction.

In relation to the appearance in less than 14 days the following procedure will apply:

1. An intra party interlocutory application should be filed with an affidavit in support and a copy of the intended summons.
2. The matter will be dealt with in the interlocutory applications list.

**HUGH BRADLEY**  
**CHIEF MAGISTRATE**

21<sup>st</sup> October 1999