



Exchequer Court (Scotland) Act 1856

1856 CHAPTER 56

VI Subpoena to be called in Court as a Summons, and Procedure thereon.

On the Expiration of the Induciae of any such Subpoena, such Subpoena may be called in the Court of Session, and thereafter enrolled, in the like Manner as any ordinary Summons ; and the Lord Ordinary shall, at the Outset of the Cause, unless the Information to which such Subpoena relates be then produced and lodged in Process, pronounce an Interlocutor allowing such Information to be lodged in Process, and no further Proceeding shall take place until such Information be lodged; and upon such Information being lodged a Copy thereof shall be served upon the Defender, unless such Service shall have been previously made; and the Transmission of such Copy through the Post, addressed to his known Residence or Place of Business, shall be deemed sufficient Service; and a Certificate by any One Person, written on the Information itself and signed, bearing that a Copy thereof has been served upon the Defender, shall be *primâ facie* Evidence of such Service having been duly made; and after the Information shall have been served as aforesaid, the Lord Ordinary shall, if the Defender shall admit the Truth of the Information, or of such Part thereof as may be insisted in against him, or do not appear, give Decree in Terms of the said Information, so far as the same shall be insisted in ; and if the Defender shall appear, and shall not admit as aforesaid, the Lord Ordinary shall appoint a Day for hearing the Parties upon such Information, where this may appear to him to be necessary, or shall appoint a Day for trying the Matters put in Issue by such Information, without any Adjustment of any separate Issue or Issues, or shall take such other Course as to him may seem proper; and where a Day shall be so appointed for Trial, a Common or Special Jury (where a Special Jury shall be applied for and granted) shall be summoned and empanelled, as in any ordinary Jury Cause before the Court of Session to be tried by a Lord Ordinary in the Outer House; and the Lord Ordinary in Exchequer Causes shall preside at such Trial, and at all other Trials of Exchequer Causes under this Act, unless in any particular Case, upon a special Request by such Lord Ordinary to that Effect to either of the Two Divisions of the Court of Session, another Lord Ordinary shall be appointed to preside in his Stead; and the Verdict of the Jury may be in one or other of the Forms in the Schedule C. hereunto annexed, or in such other Form as may be applicable to the Case, and shall be subject to the Provisions of the Act of the Seventeenth and Eighteenth of Queen *Victoria*, Chapter Fifty-nine ; and on such

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Verdict being given the Lord Ordinary presiding at the Trial shall pronounce Decree in conformity therewith, and as may be just and according to Law.