



# Attendance of Witnesses Act 1854

1854 CHAPTER 34 17 and 18 Vict

**U.K.**

An Act to enable the Courts of Law in England, Ireland, and Scotland to issue Process to compel the Attendance of Witnesses out of their Jurisdiction, and to give Effect to the Service of such Process in any Part of the United Kingdom. [10th July 1854]

## Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act repealed, so far as it authorises the issue of process by the High Court, by (E.W.) [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), [Sch. 6](#) and (N.I.) [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), ss. 122(2), 123(2), [Sch. 7](#)
- C3 Act extended by Professions Supplementary to [Medicine Act 1960 \(c. 66\)](#), s. 8(2), [Sch. 2 Pt. II para. 2\(2\)](#), [Veterinary Surgeons Act 1966 \(c. 36\)](#), s. 15(3), [Sch. 2 Pt. II para. 4\(2\)](#), [Misuse of Drugs Act 1971 \(c. 38\)](#), s. 16(1), [Sch. 3 para. 5\(2\)](#) and [Evidence \(Proceedings in Other Jurisdictions\) Act 1975 \(c. 34\)](#), s. 4
- C4 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)

## 1 **Courts of Law in England, Ireland, and Scotland may issue process to compel the attendance of witnesses although not within their jurisdiction.** **U.K.**

If in any action or suit now or at any time hereafter depending in any of her Majesty's Superior Courts of Common Law at [<sup>F1</sup>the Royal Courts of Justice] or [<sup>F2</sup>Belfast], or the Court of Session . . . . . <sup>F3</sup> in Scotland, it shall appear to the court in which such action is pending, or, if such court is not sitting, to any judge of any of the said courts respectively, that it is proper to compel the personal attendance at any trial of any witness who may not be within the jurisdiction of the court in which such action is pending, it shall be lawful for such court or judge, if in his or their discretion it shall so seem fit, to order that a writ called a writ of subpoena ad testificandum or of subpoena duces tecum or warrant of citation shall issue in special form, commanding such witness to attend such trial, wherever he shall be within the United Kingdom; and the service of any such writ or process in any part of the United Kingdom shall be

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*Changes to legislation: There are currently no known outstanding effects for the Attendance of Witnesses Act 1854. (See end of Document for details)*

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as valid and effectual, to all intents and purposes, as if same had been served within the jurisdiction of the court from which it issues.

#### Textual Amendments

- F1** Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)
- F2** Word substituted by virtue of S.R. & O. 1921/1804 (Rev. XVI, p. 967: 1921, p. 422), art. 7(b)
- F3** Words repealed by [Statute Law Revision Act 1892 \(c. 19\), Sch.](#)

## 2 Statement to be made at foot of writ that it is issued by special order. **U.K.**

Every such writ shall have at foot thereof a statement or notice that the same is issued by the special order of the court or judge, as the case may be; and no such writ shall issue without such special order.

## 3 Witnesses making default to be punished by the courts of the country in which the process was served. **U.K.**

In case any person so served shall not appear according to the exigency of such writ or process, it shall be lawful for the court out of which the same issued, upon proof made of the service thereof, and of such default, to the satisfaction of the said court, to transmit a certificate of such default under the seal of the same court, or under the hand of one of the judges or justices of the same, to any of her Majesty's Superior Courts of Common Law at [<sup>F4</sup>the Royal Courts of Justice], in case such service was had in England, or in case such service was had in Scotland to the Court of Session . . . . .<sup>F5</sup> at Edinburgh, or in case such service was had in Ireland to any of her Majesty's Superior Courts of Common Law at [<sup>F6</sup>Belfast]; and the court to which such certificate is so sent shall and may thereupon proceed against and punish the person so having made default, in like manner as they might have done if such person had neglected or refused to appear in obedience to a writ of subpoena or other process issued out of such last-mentioned court.

#### Textual Amendments

- F4** Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)
- F5** Words repealed by [Statute Law Revision Act 1892 \(c. 19\), Sch.](#)
- F6** Word substituted by virtue of S.R. & O. 1921/1804 (Rev. XVI, p. 967: 1921, p. 422), art. 7(b)

## 4 Persons not to be punished if it shall appear that sufficient money has not been tendered to pay expenses. **U.K.**

None of the said courts shall in any case proceed against or punish any person for having made default by not appearing to give evidence in obedience to any writ of subpoena or other process issued under the powers given by this Act, unless it shall be made to appear to such court that a reasonable and sufficient sum of money to defray the expenses of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time when such writ of subpoena or process was served upon such person.

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**5 Act not to prevent the issuing of a commission to examine witnesses. U.K.**

Nothing herein contained shall alter or affect the power of any of such courts to issue a commission for the examination of witnesses out of their jurisdiction in any case in which, notwithstanding this Act, they shall think fit to issue such commission.

**6 Not to affect the admissibility of evidence where now receivable. U.K.**

Nothing herein contained shall alter or affect the admissibility of any evidence at any trial, where such evidence is now by law receivable on the ground of any witness being beyond the jurisdiction of the court; but the admissibility of all such evidence shall be determined as if this Act had not passed.

**Changes to legislation:**

There are currently no known outstanding effects for the Attendance of Witnesses Act 1854.