



# Summary Jurisdiction (Process) Act 1881

1881 CHAPTER 24 44 and 45 Vict

## **4 Service of process of English court in Scotland and of Scotch court in England.**

Subject to the provisions of this Act, any process issued under the Summary Jurisdiction Acts may, if issued by a court of summary jurisdiction in England and endorsed by a court of summary jurisdiction in Scotland, or issued by a court of summary jurisdiction in Scotland and endorsed by a court of summary jurisdiction in England, be served and executed within the jurisdiction of the endorsing court in like manner as it may be served and executed in the jurisdiction of the issuing court, and that by an officer either of the issuing or of the endorsing court.

For the purposes of this Act—

- (1) Any process may be issued and endorsed under the hand of any such person as is declared by this Act to be a court of summary jurisdiction, and may be endorsed upon proof alone of the handwriting of the person issuing it, and such proof may be either on oath or by such solemn declaration as is mentioned in section forty-one of the <sup>M1</sup>Summary Jurisdiction Act 1879 or by any like declaration taken in Scotland before a sheriff, justice of the peace, or other magistrate having the authority of a justice of the peace. Such indorsement may be in the form contained in the schedule to this Act annexed, or in a form to the like effect:
- (2) Where any process requiring the appearance of a person to answer any information or complaint has been served in pursuance of this section, the court, before issuing a warrant for the apprehension of such person for failure so to appear, shall be satisfied on oath that there is sufficient *prima facie* evidence in support of such information or complaint.
- (3) If the process is to procure the attendance of a witness, the court issuing the process shall be satisfied on oath of the probability that the evidence of such witness will be material, and that the witness will not appear voluntarily without such process, and the witness shall not be subject to any liability for not obeying the process, unless a reasonable amount for his expenses has been paid or tendered to him:
- (4) This Act shall not apply to any process requiring the appearance of a person to answer a complaint if issued by an English court of summary jurisdiction for the recovery of a sum of money which is a civil debt within the meaning of the <sup>M2</sup>Summary Jurisdiction

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**Changes to legislation:** There are currently no known outstanding effects for the Summary Jurisdiction (Process) Act 1881, Section 4. (See end of Document for details)

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Act 1879 or if issued by a Scotch court in a case which falls within the definition of “civil jurisdiction” contained in the <sup>M3</sup>Summary Procedure Act 1864.

#### Modifications etc. (not altering text)

- C1** S. 4 extended by Criminal Justice Act 1972 (c. 71), **ss. 51(3)(4)**, 66(7)(a) and Powers of Criminal Courts Act 1973 (c. 62), **s. 53**; excluded by Maintenance Orders Act 1950 (c. 37), **s. 15(5)**
- C2** S. 4 extended (*prosp.*) by 1999 c. 23, **ss. 13, 68(3)**, Sch. 1 Pt. 1 para. 3(4) (with **Sch. 7 para. 5(2)**) (which amendment was repealed (25.8.2000) by 2000 c. 6, s. 165, **Sch. 12 Pt. I**)  
S. 4 applied (25.8.2000) by 2000 c. 6, **ss. 159, 168(1)**  
S. 4 applied (1.8.2001) by 1984 c. 60, **s. 9(2A)** (as inserted (1.8.2001) by 2001 c. 16, **s. 86(1)**; S.I. 2001/2223, **art. 3(e)**)
- C3** S. 4 applied (26.1.2004 for certain purposes, otherwise 4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 302, 336(3)**; S.I. 2003/3282, **art. 2**, Sch.; S.I. 2005/950, **art. 2(1)** (subject to art. 2(2), Sch. 2) (as amended: (29.7.2005) by S.I. 2005/2122, art. 2; (14.2.2007) by S.I. 2007/391, art. 2; (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, art. 2(1), Sch. 1; (9.3.2009) by S.I. 2009/616, arts. 2, 3; and (30.11.2009) by S.I. 2009/3111, arts. 2, 3)
- C4** S. 4 modified (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 194, 336, Sch. 13 para. 22**; S.I. 2005/950, **art. 2(1)**, Sch. 1 paras. 9, 35 (subject to art. 2(2), Sch. 2) (as amended by S.I. 2005/2122; S.I. 2007/391; 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2009/616 and S.I. 2009/3111)
- C5** S. 4 applied by 1995 c. 39, s. 23L(1) (as inserted (1.12.2007) by Finance Act 2007 (c. 11), s. 85, **Sch. 23 para. 3**); S.I. 2007/3166, **art. 3(b)**
- C6** S. 4 applied (with modifications) (*prosp.*) by Criminal Justice Act 2003 (c. 44), **ss. 188, 336(3), Sch. 11 para. 24**
- C7** S. 4 applied by 1997 c. 43, Sch. 1 para. 19A (as inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 7** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))
- C8** S. 4 applied (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 17 para. 40** (with Sch. 27); S.I. 2020/1236, reg. 2
- C9** S. 4 applied (E.W.) (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 396, 416(1)** (with **ss. 2, 398(1), 406, Sch. 27**); S.I. 2020/1236, reg. 2
- C10** S. 4 applied (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 56(2), 208(1)**; S.I. 2022/520, reg. 5(h)

#### Marginal Citations

- M1** 1879 c. 49.  
**M2** 1879 c. 49.  
**M3** 1864 c. 53.

**Changes to legislation:**

There are currently no known outstanding effects for the Summary Jurisdiction (Process) Act 1881, Section 4.