

process on a person in a foreign country. The person serving the subpoena shall tender to the person to whom the subpoena is addressed his estimated necessary travel and attendance expenses, the amount of which shall be determined by the court and stated in the order directing the issuance of the subpoena.

(June 25, 1948, ch. 646, 62 Stat. 949; Pub. L. 88-619, § 10(a), Oct. 3, 1964, 78 Stat. 997.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 711, 712, and 713 (July 3, 1926, ch. 762, §§ 1-3, 44 Stat. 835).

Word "resident" was substituted for "or domiciled therein." (See reviser's note under section 1391 of this title.)

Words "or any assistant or district attorney acting under him," after "Attorney General" in section 712 of title 28, U.S.C., 1940 ed., were omitted, since, in any event, the approval of the Attorney General would be required. (See section 507 of this title.)

Changes were made in phraseology.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

AMENDMENTS

1964—Pub. L. 88-619 amended section generally, and among other changes, authorized a United States court to issue a subpoena to require the appearance of a witness before it or a person or body designated by it, and the production of documents or other tangible evidence, when necessary in the interest of justice, and in other than criminal actions or proceedings, if the court finds, in addition, that its not possible to obtain admissible evidence in any other manner, and provided that the procedure relating to the subpoena shall be in accordance with the Federal Rules of Civil Procedure, and struck out provisions which authorized the issuance of a subpoena when a personally notified individual failed to appear to testify pursuant to letter rogatory, or failed to answer any question he would have to answer in any examination before the court or if such person was beyond United States jurisdiction and the testimony was desired by the Attorney General in a criminal proceeding, provided that the subpoena issue to any United States consul, that the consul make personal service of the subpoena and of any order, rule, judgment or decree, that he make return of the subpoena and tender expenses to the witness, and substituted "person" for "witness" in section catchline.

§ 1784. Contempt

(a) The court of the United States which has issued a subpoena served in a foreign country may order the person who has failed to appear or who has failed to produce a document or other thing as directed therein to show cause before it at a designated time why he should not be punished for contempt.

(b) The court, in the order to show cause, may direct that any of the person's property within the United States be levied upon or seized, in the manner provided by law or court rules governing levy or seizure under execution, and held to satisfy any judgment that may be rendered against him pursuant to subsection (d) of this section if adequate security, in such amount as the court may direct in the order, be given for any damage that he might suffer should he not be found in contempt. Security under this subsection may not be required of the United States.

(c) A copy of the order to show cause shall be served on the person in accordance with section 1783(b) of this title.

(d) On the return day of the order to show cause or any later day to which the hearing may be continued, proof shall be taken. If the person is found in contempt, the court, notwithstanding any limitation upon its power generally to punish for contempt, may fine him not more than \$100,000 and direct that the fine and costs of the proceedings be satisfied by a sale of the property levied upon or seized, conducted upon the notice required and in the manner provided for sales upon execution.

(June 25, 1948, ch. 646, 62 Stat. 949; Pub. L. 88-619, § 11, Oct. 3, 1964, 78 Stat. 998.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 714, 715, 716, 717, and 718 (July 3, 1926, ch. 762, §§ 4-8, 44 Stat. 836).

Sections 714-718 of title 28, U.S.C., 1940 ed., were consolidated, since all relate to contempt by a witness served personally in a foreign country.

The last sentence omits specific reference to section 118 of title 28, U.S.C., 1940 ed., now incorporated in section 1655 of this title, which provides for the method of opening judgments rendered on publication of process. (See also Rule 60(b) of the Federal Rules of Civil Procedure.)

Changes were made in phraseology.

AMENDMENTS

1964—Pub. L. 88-619 amended section generally, and among other changes, authorized the court to order a person to show cause for failing to produce a document or other thing in subsec. (a), provided that a copy of the order to show cause shall be served in accordance with section 1783(b) of this title, and struck out provisions requiring the marshal making levy or seizure to forward to any United States consul in the country where the witness may be, a copy of the order and a request for its personal service, and to cause publication of the order in the district where the issuing court sits, in subsec. (c), and struck out provisions in subsec. (d) permitting any judgment rendered upon service by publication only to be opened for answer within one year.

§ 1785. Subpoenas in multiparty, multiforum actions

When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.

(Added Pub. L. 107-273, div. C, title I, § 11020(b)(4)(B)(i), Nov. 2, 2002, 116 Stat. 1828.)

PRIOR PROVISIONS

A prior section 1785, act June 25, 1948, ch. 646, 62 Stat. 950, provided a privilege against self-incrimination on examination under letters rogatory, prior to repeal by Pub. L. 88-619, § 12(a), Oct. 3, 1964, 78 Stat. 998. See section 1782(a) of this title.

EFFECTIVE DATE

Section applicable to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after Nov. 2, 2002, see section 11020(c) of Pub. L. 107-273, set out as a note under section 1369 of this title.