



# Teinds Act 1808

1808 CHAPTER 138 48 Geo 3

An Act for defining and regulating the Powers of the Commission of Teinds, in augmenting and modifying the Stipends of the Clergy of Scotland. [30th June 1808]

## Textual Amendments

**F1** Act repealed (*prosp.*) by 2000 asp 5, ss. 76(2), 77(2)(a)(d), **Sch. 13 Pt. I** (with ss. 58, 62, 75)

Whereas by an <sup>M1</sup>Act of the Parliament of Scotland in the year one thousand seven hundred and seven, intituled “Act anent plantation of kirks and valuation of teinds,” her Majesty Queen Anne and the estates of Parliament empowered, authorized, and appointed the lords of council and session to judge, cognosce, and determine in all affairs and causes which by the laws and Acts of the Parliament of Scotland had been referred and did pertain and belong to the jurisdiction and cognizance of commissioners formerly appointed for that effect, as fully and freely in all respects as the said lords did or might do in other civil causes; and certain powers therein mentioned were particularly granted by the said Act; and it was thereby declared that the said Act and commission should be subject nevertheless to such regulations and alterations as should be made by the Parliament of Great Britain: And whereas it is expedient that the powers of the said lords of council and session as commissioners aforesaid should in some respects be defined and regulated

## Marginal Citations

**M1** Scotch Act, 1707.

### [1.] **Stipends modified before the passing of this Act, not to be again modified for 15 years.**

From and after the passing of this Act it shall not be competent to the said lords of council and session as commissioners aforesaid, except as after specified, to augment or modify any stipend which shall have been augmented or modified prior to the passing of this Act, until the expiration of fifteen years from and after the date of the last final decret of modification of such stipend.

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**2 Stipends modified after the passing of this Act, not to be again modified for 20 years.**

And no stipend which shall be augmented or modified by a decree after the passing of this Act shall be again augmented or modified until the expiration of twenty years from and after the date of such decree or modification thereof; nor shall any such stipend be augmented or modified at any future period until the expiration of twenty years from and after the date of the last decree of modification thereof respectively.

**3—6** ..... F2

**Textual Amendments**  
F2 Ss. 3—6, 15, 18 repealed by Statute Law Revision Act 1872 (No. 2) (c. 97)

**7 Commissioners of teinds may refuse to augment or modify stipends.**

Provided further, that in all cases whatsoever where an augmentation or modification of stipend shall have been or shall be applied for, and which shall be judged of, or a decision pronounced therein, after the passing of this Act, by the said lords of council and session as commissioners aforesaid, it shall and may be competent to them to refuse to augment or modify any stipend in any such case, either on account of there being no legal fund of augmentation or on account of the circumstances of the case; and it shall and may be competent for any party or parties to propone all relevant objections in every case whatsoever where an augmentation or modification shall be applied for, and which objections shall be determined by the said lords of council and session as commissioners aforesaid as heretofore.

**8 Stipends which shall be augmented shall be wholly modified in grain or victual, unless where it shall appear necessary.**

And every stipend which shall be augmented after the passing of this Act shall be wholly modified in grain or victual, even although part of the whole thereof shall have been previously modified in money, or although part of the whole of the teinds shall be money teind, unless where it shall appear necessary, on account of the state of the teinds, or on account of the interest of the benefice, or on account of the nature of the articles other than grain or victual which have been in use to be delivered in kind as stipend, that a part of the said stipend should be modified not in grain or victual but in money, or should be modified in such other articles as have been in use to be delivered in kind as stipend.

**9 Money stipends to be converted into grain or victual, except as aforesaid, according to the fiar prices of the county on average of seven years.**

And in the case of every decree of modification which shall be pronounced after the passing of this Act as aforesaid, it shall and may be competent to the said lords of council and session as commissioners aforesaid, and they are hereby authorized and required, to convert the said money stipend or money teind into grain or victual, save and except as aforesaid; and to make such conversion into grain or victual according to the fiar prices of the kind or description of grain or victual into which the same shall be converted, as appearing from the fiars of the county struck for each year in virtue

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of authority from the sheriff in which the parish shall be situated, upon an average of such fiar prices for seven years preceding the date of the decret of modification, and exclusive of that year in which such decret of modification shall bear date.

**10 Where there are no fiars applicable in the county where the parish is situate, the fiar prices may be taken from two or more adjoining counties.**

Provided always, that where such parish shall not be altogether situated in the same county or where no fiars applicable to the kind or description of grain modified shall be struck in the county wherein such parish is situated, it shall be competent for the said lords of council and session as commissioners aforesaid, to convert the said money into grain or victual according to the average of the aforesaid seven years of the fiar prices of two or more of the adjoining counties, or of such county or counties as they shall deem most suitable in the circumstances of the case.

**11 Ministers not to receive stipend in kind, but to receive it in money according to the fiar prices of the grain into which the same shall have been modified.**

And it shall not be competent for the lords of council and session as commissioners aforesaid, where a stipend shall after the passing of this Act be modified in grain or victual, in whole or in part, to authorize the minister to receive the same or any part thereof in kind, but that it shall only be competent for them to decree the value thereof to be paid or for him to receive the same in money, according to the fiar prices of the kind or description of grain or victual into which the same shall have been modified, as appearing from the annual fiars of the county in which the parish, the stipend of which shall have been so modified shall be situated, struck in virtue of authority from the sheriff for that crop or year for which such stipend modified in grain or victual shall be payable.

**12 Where the parish shall not be altogether situated in one county two or more commissioners may fix upon adjoining counties for taking the fiar prices.**

Provided always, that where any such parish shall not be altogether situated in one and the same county or where no annual fiars applicable to the kind or description of grain or victual modified, shall be struck in the county wherein such parish is situated, it shall be competent for the said lords of council and session as commissioners aforesaid to fix upon and specify two or more of the adjoining counties, or such county, or counties as they shall deem most suitable in the circumstances of the case, according to the annual fiar prices of which county, or counties they shall decree the value thereof to be paid in money.

**13 Conversion to be made according to the highest fiar price.**

Provided always, that where there shall have been or shall be different rates of annual fiar prices for any county district or place struck in virtue of authority from the sheriff the said conversion from money into grain or victual, and from grain or victual into money, in all of the cases aforesaid, shall be made according to the highest annual fiar prices struck in virtue of authority from the sheriff for the said county, district or place.

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**14 Right of surrendering teinds not to be taken away.**

Provided always, that the right of any heritor to surrender his valued teind in place of subjecting his lands to the amount of the stipend localled upon them shall not be taken away by what is herein enacted.

**15** ..... F3

**Textual Amendments**  
F3 Ss. 3–6, 15, 18 repealed by [Statute Law Revision Act 1872 \(No. 2\)](#) (c. 97)

**16 Regulations may be made for abridging the forms and expence of citation, and for expediting the business.**

And it shall be lawful for the said lords of council and session as commissioners aforesaid, and they are hereby empowered and required, to establish rules and regulations abridging the forms and expence of citation of heritors and others, and for ascertaining the facts and circumstances of the case, and to establish regulations for executing the business committed to them by the said in part recited Act of the Parliament of Scotland, and by the present Act, with as much expedition and as little expence as possible.

**17 In cases of augmentation moderator and clerk of the presbytery to be cited and furnished with statement of present stipend, and the addition intended to be craved, &c.**

And in order to guard against collusion, and also in order that no processes of augmentation or for modification of stipends shall be raised on the ground of alleged collusion, every minister insisting in the process of augmentation shall after the passing of this Act, besides citing the heritors, also cite the moderator and clerk of the presbytery of the bounds, and furnish them with a statement of the amount of his present stipend, and the addition to the stipend which he means to crave, in order that the presbytery, if they shall judge it proper, may appear as parties to the process; and in the event of the presbytery entering no appearance, the minister shall forthwith transmit to the moderator or clerk of the presbytery a certified copy of the interlocutory pronounced by the court; and it shall be competent to the presbytery, within five months after such interlocutor is pronounced, to enter an appearance, and to shew, if they shall see cause, that the decree of modification pronounced is collusive and prejudicial to the benefice: Provided, that if the presbytery shall enter an appearance in such process it shall be competent to the court to subject the minister insisting in such process in the whole or any part of the expences of process incurred by the presbytery.

**18** ..... F4

**Textual Amendments**  
F4 Ss. 3–6, 15, 18 repealed by [Statute Law Revision Act 1872 \(No. 2\)](#) (c. 97)

**Changes to legislation:**

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**Commencement Orders yet to be applied to the Teinds Act 1808**

Commencement Orders bringing legislation that affects this Act into force:

- [S.S.I. 2003/456 art. 2](#) commences (2000 asp 5)