



# Administration of Justice (Scotland) Act 1972

## 1972 CHAPTER 59

- 1 Extended powers of courts to order inspection of documents and other property, etc.**
- (1) Without prejudice to the existing powers of the Court of Session and of the sheriff court, those courts shall have power, subject to the provisions of subsection (4) of this section, to order the inspection, photographing, preservation, custody and detention of documents and other property (including, where appropriate, land) which appear to the court to be property as to which any question may relevantly arise in any existing civil proceedings before that court or in civil proceedings which are likely to be brought, and to order the production and recovery of any such property, the taking of samples thereof and the carrying out of any experiment thereon or therewith.
- (2) Notwithstanding any rule of law or practice to the contrary, the court may exercise the powers mentioned in subsection (1) of this section—
- (a) where proceedings have been commenced, on the application, at any time after such commencement, of a party to or minuter in the proceedings, or any other person who appears to the court to have an interest to be joined as such party or minuter;
  - (b) where proceedings have not been commenced, on the application at any time of a person who appears to the court to be likely to be a party to or minuter in proceedings which are likely to be brought;
- unless there is special reason why the application should not be granted.
- (3) The powers conferred on the Court of Session by section 16 of the Administration of Justice (Scotland) Act 1933 to regulate its own procedure and the powers conferred on that Court by section 32 of the Sheriff Courts (Scotland) Act 1971 to regulate the procedure of the sheriff court shall include power to regulate and prescribe the procedure to be followed, and the form of any document to be used, in any application under the foregoing provisions of this section in a case where the application is in respect of proceedings which have not been commenced, and such incidental, supplementary and consequential provisions as appear appropriate; and without prejudice to the said generality, the said powers shall include power to provide in such

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*Status: This is the original version (as it was originally enacted).*

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a case for the application to be granted *ex parte*, for the intimation of the application to such persons (if any) as the court thinks fit, and for the finding of caution where appropriate for any loss, damage or expenses which may be incurred as a result of the application.

- (4) Nothing in this section shall affect any rule of law or practice relating to the privilege of witnesses and havers, confidentiality of communications and withholding or non-disclosure of information on the grounds of public interest; and section 47 of the Crown Proceedings Act 1947 (recovery of documents in possession of Crown) shall apply in relation to any application under this section in respect of a document or other property as it applied before the commencement of this section to an application for commission and diligence for the recovery of a document.