



Court of Session Act 1988

1988 CHAPTER 36

PART VI

MISCELLANEOUS PROVISIONS

44 Selection of judges for trial of election petitions

- (1) The judges to be placed on the rota for the trial of parliamentary election petitions in Scotland under Part III of the Representation of the People Act 1983 in each year shall be selected, in such manner as the Lord President may direct, from the judges of the Court exclusive of any who are members of the House of Lords.
- (2) Notwithstanding the expiry of the year for which a judge has been placed on the rota, he may act as if that year had not expired for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case with which he may have been concerned during that year.
- (3) Any judge placed on the rota shall be eligible to be placed on the rota again in the succeeding or any subsequent year.

45 Restoration of possession and specific performance

The Court may, on application by summary petition—

- (a) order the restoration of possession of any real or personal property of the possession of which the petitioner may have been violently or fraudulently deprived; and
- (b) order the specific performance of any statutory duty, under such conditions and penalties (including fine and imprisonment, where consistent with the enactment concerned) in the event of the order not being implemented, as to the Court seem proper.

Status: This is the original version (as it was originally enacted).

46 Specific relief may be granted in interdict proceedings

Where a respondent in any application or proceedings in the Court, whether before or after the institution of such proceedings or application, has done any act which the Court might have prohibited by interdict, the Court may ordain the respondent to perform any act which may be necessary for reinstating the petitioner in his possessory right, or for granting specific relief against the illegal act complained of.

47 Interim interdict and other interim orders

- (1) In any cause containing a conclusion or a crave for interdict or liberation, the Division of the Inner House or the Lord Ordinary (as the case may be) may, on the motion of any party to the cause, grant interim interdict or liberation; and it shall be competent for the Division of the Inner House or the Lord Ordinary before whom any cause in which interim interdict has been granted is pending to deal with any breach of the interim interdict without the presentation of a petition and complaint.
- (2) In any cause in dependence before the Court, the Court may, on the motion of any party to the cause, make such order regarding the interim possession of any property to which the cause relates, or regarding the subject matter of the cause, as the Court may think fit.
- (3) Every interim act, warrant and decree granted during the dependence of a cause in the Court shall, unless the Court otherwise directs, be extractible *ad interim*.

48 Limited right of audience of solicitor before the Court

Any solicitor entitled to practise before the Court shall have a right of audience before the vacation judge and in such other circumstances as may be prescribed.

49 Subscription of bill for letters of inhibition

- (1) Subject to subsection (2) below, the subscription by such of the clerks of session as may be prescribed of a bill craving warrant for the signeting of letters of inhibition shall be sufficient warrant for that purpose without the subscription of the bill by a Lord Ordinary.
- (2) Where in the case of any such bill a doubt or difficulty occurs to the clerk of session, he shall report the matter to a Lord Ordinary, and where a matter is so reported the subscription of the bill by the Lord Ordinary shall be necessary.

50 Copy of interlocutor granting commission and diligence to be equivalent to formal extract

A copy of an interlocutor, pronounced by a Lord Ordinary or the Inner House granting commission and diligence, which is certified by a clerk of court shall have the same force and effect as a formal extract of the interlocutor.