
Changes to legislation: Court of Session Act 1988 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 1

Section 52(1).

MINOR AMENDMENTS

The Jury Trials (Scotland) Act 1815 (c.42)

- 1 In section 20 (common jury summons)—
- (a) for the words from the beginning to “sheriff principal” there shall be substituted the words “immediately upon receipt of the authority or precept issued under section 12 of the Court of Session Act 1988, the sheriff principal”;
 - (b) for the words “to the clerk of the jury” there shall be substituted the words “to a clerk of”;
 - (c) the words “by the clerk of the jury court” where they occur for the second time shall cease to have effect.

The Sheriff Courts (Scotland) Act 1907 (c.51)

- 2 After section 38A there shall be inserted the following—
- “Consistorial Causes

38B Lord Advocate as party to action for divorce.

- (1) The Lord Advocate may enter appearance as a party in any action for divorce, and he may lead such proof and maintain such pleas as he thinks fit, and the sheriff shall, whenever he considers it necessary for the proper disposal of any such action, direct that the action shall be brought to the notice of the Lord Advocate in order that he may determine whether he should enter appearance therein.
- (2) No expenses shall be claimable by or against the Lord Advocate in any action in which he has entered appearance under this section.

38C Orders with respect to children.

- (1) In any action for divorce or separation, the sheriff may make, with respect to any child of the marriage to which the action relates, such order (including an interim order) as he thinks fit relating to parental rights, and may vary or recall such order.
- (2) In this section—
 - (a) “child” and “parental rights” have the same meaning as in section 8 of the Law Reform (Parent and Child)(Scotland) Act 1986;
 - (b) “child of the marriage” includes any child who—
 - (i) is the child of both parties to the marriage, or

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(ii) is the child of one party to the marriage and has been accepted as a child of the family by the other party.”.

SCHEDULE 2

Section 52(2).

REPEALS

PART I

ENACTMENTS REPEALED

1594 c.22.	The Declinature Act 1594.	The whole Act.
1672 c.6.	The Summons Execution Act 1672	The whole Act.
1681 c.79.	The Declinature Act 1681.	The whole Act so far as relating to the Court of Session.
48 Geo. 3. c.151.	The Court of Session Act 1808.	The whole Act.
50 Geo.3. c.112.	The Court of Session Act 1810.	The whole Act.
53 Geo. 3. c.64.	The Court of Session Act 1813.	The whole Act.
55 Geo. 3. c.42	The Jury Trials (Scotland) Act 1815.	Sections 1 to 19. In section 20 the words “by the clerk of the jury court” where they occur for the second time. Sections 21 to 41.
59 Geo. 3. c.35.	The Jury Trials (Scotland) Act 1819.	The whole Act.
59 Geo. 3. c.45.	The Court of Session Act 1819.	The whole Act.
1 & 2 Geo. 4. c.38.	The Court of Session Act 1821.	The whole Act except section 32.
6 Geo. 4. c.22.	The Jurors (Scotland) Act 1825.	Sections 17 and 19.
6 Geo. 4. c.120.	The Court of Session Act 1825.	Sections 1 to 52. In section 53 the words from the beginning to “sixty

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		days; and” and the words “or sited”.
		Section 54.
11 Geo. 4 & 1 Wm. 4 c.69.	The Court of Session Act 1830.	Sections 1 to 3.
		Section 9.
		Section 11.
		Sections 15 and 16.
		Section 19.
		Section 29, so far as relating to the Court of Session, and the proviso.
		Section 35.
		Section 37.
		Section 40.
2 & 3 Wm. 4. c.5.	The Court of Session Act 1832.	The whole Act.
7 Wm. 4 & 1 Vict. c.14.	The Jury Trials (Scotland) Act 1837.	The whole Act.
1 & 2 Vict. c.86.	The Court of Session (No. 1) Act 1838.	The whole Act.
1 & 2 Vict. c.118.	The Court of Session (No. 2) Act 1838.	The whole Act except section 27.
2 & 3 Vict. c.36.	The Court of Session Act 1839.	Section 1.
13 & 14 Vict. c.36.	The Court of Session Act 1850.	The whole Act except section 16.
19 & 20 Vict. c.56.	The Exchequer Court (Scotland) Act 1856.	Sections 2 to 4.
		Section 13.
		In section 14 the words from “and such application” to “proper”.
		Sections 15 and 16.
		Sections 19 to 23.
		Sections 25 to 28.
		Section 44.
		Schedule G.
20 & 21 Vict. c.18.	The Bill Chamber Procedure Act 1857.	The whole Act.

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20 & 21 Vict. c.56.	The Court of Session Act 1857.	The whole Act.
24 & 25 Vict. c.86.	The Conjugal Rights (Scotland) Amendment Act 1861.	The whole Act except sections 6 and 20.
29 & 30 Vict. c.112.	The Evidence (Scotland) Act 1866.	The whole Act.
31 & 32 Vict. c.100.	The Court of Session Act 1868.	Section 10. Sections 12 and 13. Section 14 in so far as it relates to summonses and petitions. Sections 15 to 44. In section 45 the words from “or at” to “such trial”). Section 46. In section 47 the words from “where the trial” to “town”. Sections 50 to 101.
31 & 32 Vict. c.125.	The Parliamentary Elections Act 1868	The whole Act.
40 & 41 Vict. c.11.	The Jurisdiction in Rating Act 1877.	In section 3, in the definition of “judge” the words “As to Scotland, any judge of the High Court of Session; and”.
42 & 43 Vict. c.75.	The Parliamentary Elections and Corrupt Practices Act 1879.	The whole Act.
46 & 47 Vict. c.51.	The Corrupt and Illegal Practices Prevention Act 1883.	The whole Act.
52 & 53 Vict. c.54.	The Clerks of Session (Scotland) Regulation Act 1889.	Sections 6 and 7. Section 9. Section 12.
10 Edw. 7 & 1 Geo. 5. c.31.	The Jury Trials Amendment (Scotland) Act 1910.	The whole Act.
18 & 19 Geo. 5. c.34.	The Reorganisation of Offices (Scotland) Act 1928.	Sections 8 and 9.

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23 & 24 Geo. 5. c.41.	The Administration of Justice (Scotland) Act 1933.	Sections 2 to 6. Sections 9 to 11. Sections 13 to 18. In section 24, subsection (5). Section 30. In section 40, the definition of “consistorial cause”.
12, 13 & 14 Geo. 6. c.10.	The Administration of Justice (Scotland) Act 1948.	The whole Act.
12 & 13 Geo. 6. c.27.	The Juries Act 1949.	Schedule 1 so far as relating to the Court of Session Act 1868.
1968 c.5.	The Administration of Justice Act 1968.	The whole Act so far as relating to Scotland.
1972 c.59.	The Administration of Justice (Scotland) Act 1972.	Section 2.
1977 c.38.	The Administration of Justice Act 1977.	Section 29(1).
1980 c.55.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980.	Section 1(6)(b).
1983 c.12.	The Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983.	In Schedule 1, paragraphs 5 and 8.
1985 c.6.	The Companies Act 1985.	In section 425(5) the words from “in pursuance” to “1933”.
1985 c.73.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.	In Schedule 2, paragraph 8.
1986 c.9.	The Law Reform (Parent and Child) (Scotland) Act 1986.	In Schedule 1, paragraph 2.
1986 c.45.	The Insolvency Act 1986.	In section 120(2) the words from “in pursuance” to the end. In section 162(2) the words from “in pursuance” to “1933”.
1986 c.55.	The Family Law Act 1986	In Schedule 1, paragraph 1.

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PART II

REPEALED ENACTMENTS WHICH ARE RE-ENACTED

48 Geo. 3 c.151.	The Court of Session Act 1808	Section 15 except the words “to which such Lords Ordinary belong”. Section 17 except the words “or any four of the judges thereof”. Sections 18 to 20.
50 Geo. 3 c.112.	The Court of Session Act 1810	In section 32 the words from “three judges” to “inner house”.
53 Geo. 3 c.64.	The Court of Session Act 1813.	In section 17 the words from “the endorsation” to the end.
55 Geo. 3 c.42.	The Jury Trials (Scotland) Act 1815.	Section 1. Section 5. In section 6, the proviso. In section 7 the words from “notwithstanding” to “when necessary”. Section 8 except the words “or judges” and “or by the judge admiral respectively”. In section 21 the words from “in challenging” to the end. In section 29 the words from the beginning to “be allowed”. Section 33 except the words from “to be afterwards” to the end.
59 Geo. 3 c.45.	The Court of Session Act 1819.	Section 1 in so far as it enables the senior Lord Ordinary to fill a vacancy arising in the Inner House.
1 & 2 Geo. 4. c.38.	The Court of Session Act 1821.	Section 1 except the words “advocation and” and “either for the lord ordinary on the bills or”.
6 Geo. 4 c.120.	The Court of Session Act 1825.	Section 1.

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		Section 5 so far as relating to appeal to the House of Lords.
		In section 17 the words from “every interlocutor” to the end.
		In section 21 the words from “the judgment” to the end.
		Section 23.
		Section 28 except the words from “all actions on account of any injury to moveables” to “seduction”, from “all actions on the responsibility” to “nuisance” and from “all actions on policies” to the end and except so far as relating to the jury court and Court of Admiralty.
		In section 40 the words from the beginning to “in the interlocutor” and from “and further” to “of the case” but only in relation to proofs in sheriff courts.
		In section 46 the words from “and in the event” to the end.
1 & 2 Vict. c.86.	The Court of Session (No. 1) Act 1838.	In section 4 the words from “in all cases” to “interim possession”.
		In section 5 the words from the beginning to “Session”.
13 & 14 Vict. c.36.	The Court of Session Act 1850.	Section 25.
		Section 28 except the words “without the necessity of such special allowance”.
		Section 35.
		Section 42.
19 & 20 Vict. c.56.	The Exchequer Court (Scotland) Act 1856.	Sections 2 and 3.
		Section 20.
		Sections 22 and 23.
		Section 25.

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20 & 21 Vict. c.56.	The Court of Session Act 1857.	Section 5 so far as relating to petitions. Section 6 so far as relating to petitions.
24 & 25 Vict. c.86.	The Conjugal Rights (Scotland) Amendment Act 1861.	Sections 8 and 9.
29 & 30 Vict. c.112.	The Evidence (Scotland) Act 1866.	In section 13, the proviso. Section 1 in so far as it authorises the taking of proof before the Lord Ordinary. Section 2. Section 3 except the words from “and where” to the end. Section 4. Section 6.
31 & 32 Vict. c.100.	The Court of Session Act 1868.	Section 36. Section 44 except the words from “and if” to the end. Section 59. Section 60 except the words from “the printed” to “or to direct that”. In section 61 the words from the beginning to “verdict”. Sections 62 and 63. Section 72 so far as relating to appeals from the sheriff, except the words “although such law is not pleaded on the record”. Section 74 so far as relating to transmission of sheriff court causes. Section 89. In section 91 the words from the beginning to “seem proper”. In section 92, the last sentence. Section 100(2).

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31 & 32 Vict. c.125.	The Parliamentary Elections Act 1868	Section 58.
40 & 41 Vict. c.11.	The Jurisdiction in Rating Act 1877.	In section 3, in the definition of “judge” the words “As to Scotland, any judge of the High Court of Session, and”.
42 & 43 Vict. c.75.	The Parliamentary Elections and Corrupt Practices Act 1879.	Section 2.
46 & 47 Vict. c.51.	The Corrupt and Illegal Practices Prevention Act 1883.	Section 42.
10 Edw. 7 & 1 Geo. 5 c.31.	The Jury Trials Amendment (Scotland) Act 1910.	Section 2.
23 & 24 Geo. 5 c.41.	The Administration of Justice (Scotland) Act 1933.	Section 2(1). Section 3(2). Section 4 so far as it relates to the regulation of the powers of the vacation judge by act of sederunt. In section 6, subsections (4) and (7). In section 10, subsections (1) and (6) to (8). In section 11, subsections (1) and (2). Section 14 so far as providing competence for reclaiming. Section 15 so far as relating to power to prescribe form of extract of decree. Sections 16 and 17. Section 18 except proviso (i) to subsection (3). Section 24(5).
12, 13 and 14. Geo. 6. c.10.	The Administration of Justice (Scotland) Act 1948.	Section 1 except the words from “when” to “thirteen”. Sections 2 and 3.
12 & 13 Geo. 6 c.27.	The Juries Act 1949.	Schedule 1 so far as relating to the Court of Session Act 1868.

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1968 c. 5.	The Administration of Justice Act 1968.	Section 1 so far as relating to Scotland.
1972 c. 59.	The Administration of Justice (Scotland) Act 1972.	Section 2.
1977 c.38.	The Administration of Justice Act 1977.	Section 29(1).
1983 c.12.	The Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983.	In Schedule 1, paragraph 8.
1985 c.73.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.	In Schedule 2, paragraph 8.
1986 c.9.	The Law Reform (Parent and Child)(Scotland) Act 1986.	In Schedule 1, paragraph 2.

PART III

REPEALED ENACTMENTS WHICH ARE NOT RE-ENACTED

1594 c.22.	The Declinature Act 1594.	The whole Act.
1672 c.6.	The Summons Execution Act 1672.	The whole Act.
1681 c.79.	The Declinature Act 1681.	The whole Act so far as relating to the Court of Session.
48 Geo. 3 c.151.	The Court of Session Act 1808.	Section 1. Section 4. Section 6. Section 10. Section 13. In section 15 the words “to which such Lords Ordinary belong”. In section 17 the words “or any four of the judges thereof”. Section 21.
50 Geo. 3 c.112.	The Court of Session Act 1810.	Section 11. Section 13. Sections 18 to 25.

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53 Geo. 3 c.64.	The Court of Session Act 1813.	Sections 28 to 30. Section 32 except the words from “three judges” to “inner house”. Sections 33 to 38. Section 48. Sections 51 and 52. The Schedules. Section 1. Section 7. Section 14. Section 17 except the words from “the endorsation” to the end.
55 Geo. 3 c.42.	The Jury Trials (Scotland) Act 1815.	Section 6 except the proviso. Section 7 except the words from “notwithstanding” to “when necessary”. In section 8 the words “or judges” and “or by the judge admiral respectively.” Section 9. Section 12. Sections 15 to 17. Section 19. In section 20 the words “by the clerk of the jury court” where they occur for the second time. In section 21 the words from the beginning to “Provided always that”. Section 22. Section 23. Section 28. In section 29 the words after “be allowed”. In section 33 the words from “to be afterwards” to the end.

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		Section 39.
		Section 41.
59 Geo. 3 c.35.	The Jury Trials (Scotland) Act 1819.	Sections 7 to 9.
		Sections 13 and 14.
		Section 17.
		Section 19.
		Sections 26 and 27.
		Section 35.
59 Geo. 3 c.45.	The Court of Session Act 1819.	Section 1 except in so far as it enables the senior Lord Ordinary to fill a vacancy arising in the Inner House.
		Section 3.
		Section 6.
1 & 2 Geo. 4 c.38.	The Court of Session Act 1821.	In section 1 the words “advocation and” and “either for the Lord Ordinary on the bills or”.
		Section 3.
		Section 9.
		Sections 11 to 14.
		Section 18.
		Section 24.
		Sections 26 and 27.
		Sections 29 to 31.
6 Geo. 4 c.22.	The Jurors (Scotland) Act 1825.	Sections 17 and 19.
6 Geo. 4 c.120.	The Court of Session Act 1825.	Section 5 except so far as relating to appeal to the House of Lords.
		Sections 11 and 12.
		In section 17 the words from the beginning to “in part; and”.
		Section 20.
		In section 21 the words from the beginning to “expenses; and”.
		Section 22.

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Sections 24 to 26.

In section 28 the words from “all actions on account of any injury to moveables” to “seduction”, from “all actions on the responsibility” to “nuisance” and from “all actions on policies” to the end and that section so far as relating to the jury court and the Court of Admiralty.

Section 33.

Section 35.

Section 40 so far as relating to proofs in inferior courts other than sheriff courts and in that section the words from “Provided however” to “repealed” and from “but it is” to the end.

Section 44.

Section 45.

In section 46 the words from the beginning to “other division”.

Sections 47 and 48.

Sections 51 and 52.

In section 53 the words from the beginning to “sixty days; and” and the words “or cited”.

Section 54.

11 Geo. 4 & 1 Will. 4 c.69. The Court of Session Act
1830.

Sections 1 to 3.

Section 9.

Section 11.

Sections 15 and 16.

Section 19.

Section 29, so far as relating to the Court of Session, and the proviso.

Section 35.

Section 37.

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		Section 40.
2 & 3 Will. 4 c.5.	The Court of Session Act 1832.	The whole Act.
7 Will. 4 & 1 Vict. c.14.	The Jury Trials (Scotland) Act 1837.	The whole Act.
1 & 2 Vict. c.86.	The Court of Session (No. 1) Act 1838.	Section 4 except the words from “in all cases” to “interim possession”. In section 5 the words from “by lodging” to the end.
		Section 6.
1 & 2 Vict. c.118.	The Court of Session (No. 2) Act 1838.	Section 1.
		Section 4.
		Section 14.
		Section 17.
		Section 21.
		Section 24.
		Section 26.
		Sections 28 and 29.
		The Schedule.
2 & 3 Vict. c.36.	The Court of Session Act 1839.	Section 1.
13 & 14 Vict. c.36.	The Court of Session Act 1850.	Section 5.
		Sections 7 and 8.
		Sections 17 to 20.
		Sections 22 and 23.
		Sections 26 and 27.
		In section 28 the words “without the necessity of such special allowance”.
		Section 29.
		Section 32.
		Section 36.
		Sections 39 to 41.
		Sections 44 to 53.
		Schedule (B).

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19 & 20 Vict. c.56.	The Exchequer Court (Scotland) Act 1856.	Section 4. Section 13. In section 14 the words from “and such application” to “proper”. Sections 15 and 16. Section 19. Sections 26 to 28. Section 44. Schedule G.
20 & 21 Vict. c.18.	The Bill Chamber Procedure Act 1857.	The whole Act.
20 & 21 Vict. c.56.	The Court of Session Act 1857.	Section 5 so far as relating to applications and reports. Section 6 so far as relating to applications and reports. Section 8.
24 & 25 Vict. c.86.	The Conjugal Rights (Scotland) Amendment Act 1861.	Section 10. Section 13 except the proviso. Section 19.
29 & 30 Vict. c.112.	The Evidence (Scotland) Act 1866.	Section 1 except in so far as it authorises the taking of proof before the Lord Ordinary. In section 3 the words from “and where” to the end.
31 & 32 Vict. c.100.	The Court of Session Act 1868.	Section 10. Sections 12 and 13. Section 14 in so far as it relates to summonses and petitions. Sections 15 to 17. Sections 20 to 22. Sections 25 and 26. Sections 28 to 30. Section 32.

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Sections 34 and 35.

Sections 37 and 38.

Sections 40 and 41.

Section 43.

In section 44 the words from “and if” to the end.

In section 45 the words from “or at” to “such trial”.

Section 46.

In section 47 the words from “where the trial” to “town”

Section 50.

Sections 52 and 53.

Sections 56 to 58.

In section 60 the words from “the printed” to “or to direct that”.

In section 61 the words from “but this” to the end.

Sections 65 to 71.

In section 72 the words “although such law is not pleaded on the record” and that section except so far as relating to appeals from the sheriff.

Section 73.

Section 74 except so far as relating to transmission of sheriff court causes.

Sections 76 to 88.

Section 90.

In section 91 the words from “and such petitions” to the end.

Section 92 except the last sentence.

Section 93.

Sections 95 to 99.

Section 100(1).

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		Section 101.
31 & 32 Vict. c.125.	The Parliamentary Elections Act 1868.	Section 1.
42 & 43 Vict. c.75.	The Parliamentary Elections and Corrupt Practices Act 1879.	Section 1.
46 & 47 Vict. c.51.	The Corrupt and Illegal Practices Prevention Act 1883.	Section 65.
52 & 53 Vict. c.54.	The Clerks of Session (Scotland) Regulation Act 1889.	Sections 6 and 7.
		Section 9.
		Section 12.
10 Edw. 7 & 1 Geo. 5 c.31.	The Jury Trials Amendment (Scotland) Act 1910.	Sections 3 and 4.
18 & 19 Geo. 5. c.34.	The Reorganisation of Offices (Scotland) Act 1928.	Sections 8 and 9.
23 & 24 Geo. 5. c.41.	The Administration of Justice (Scotland) Act 1933.	Section 2(2).
		Section 3(1).
		Section 4 except so far as it relates to the regulation of the powers of the vacation judge by act of sederunt.
		Section 5.
		In section 6, subsections (1) to (3) and (5) and (6).
		Section 9.
		In section 10, subsections (2) to (5).
		Section 11(3).
		Section 13.
		Section 14 so far as relating to procedure.
		Section 15 except so far as relating to power to prescribe form of extract of decree.
		In section 18(3), proviso (i).
		Section 30.

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		In section 40, the definition of “consistorial cause”.
12, 13 & 14 Geo. 6. c.10.	The Administration of Justice (Scotland) Act 1948.	In section 1 the words from “when” to “thirteen” Section 5.
1968 c.5.	The Administration of Justice Act 1968.	Section 2.
1980 c.55.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980.	Section 1(6)(b).
1983 c.12.	The Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983.	In Schedule 1, paragraph 5.
1985 c.6.	The Companies Act 1985.	In section 425(5) the words from “in pursuance” to “1933”.
1986 c.45.	The Insolvency Act 1986.	In section 120(2) the words from “in pursuance” to the end. In section 162(2) the words from “in pursuance” to “1933”.
1986 c.55.	The Family Law Act 1986.	In Schedule 1, paragraph 1.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1A) added by [2024 asp 1 s. 7\(13\)](#)