



# Jurors (Scotland) Act 1825

## 1825 CHAPTER 22

An Act to regulate the Qualification and the Manner of enrolling Jurors in *Scotland*, and of choosing Jurors on Criminal Trials there; and to unite Counties for the Purposes of Trial in Cases of High Treason in *Scotland*. [20th May 1825]

WHEREAS it is expedient that the Qualification of Persons in *Scotland* liable to serve as Jurors should be fixed and ascertained, and that the Mode of making up Rolls or Lists of Persons in *Scotland* liable to serve as Jurors should be regulated, and that the Mode of choosing Jurors in Criminal Trials there should be altered, and that Provisions should be made for uniting Counties for the Purposes of Trial in Cases of High Treason, there :

May it therefore please Your Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

### **Qualification of Jurors.**

That every Man, except as herein-after excepted, being between the Ages of Twenty-one and Sixty Years, residing in any County or Stewartry in *Scotland*; being qualified to serve as a Juror in Terms of an Act passed in the Sixth Year of the Reign of Her Majesty Queen *Anne*, intituled *An Act for settling and establishing a Court of Exchequer in the North Part of Great Britain called Scotland* ; videlicet, every such Man at the Time of the Trial on which he may be required to serve having and being seised in his own Right, or in the of his Wife, of Lands or Tenements, of an Estate of Inheritance, or for his or her Life, within the County or Shire, City or Place, from whence the Jury is to come, of the yearly Value of Five Pounds at the least, or shall be then worth in Goods, Chattels, and Personal Estate, the Sum of Two hundred Pounds Sterling at least, shall be qualified and shall be liable, to serve on Juries in *Scotland*, before any Court there, Civil or Criminal, competent to try Causes by Jury.

### **II Who shall be exempted from being returned or serving on Juries.**

Provided always, and be it enacted, That all Peers, all Judges of the Supreme Courts, including the Judge Admiral and Commissaries of *Edinburgh*, all Sheriffs and

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Stewarts of Counties or Stewartries, all Magistrates of Royal Burghs, all Ministers of the Established Church, and all other Ministers of Religion, who shall have duly taken and subscribed the Oaths and Declaration required by Law, and whose Place of Meeting shall be duly registered, and all Parochial Schoolmasters, also all Advocates practising as Members of the Faculty of Advocates, all Writers to the Signet practising as such, all Solicitors practising before any of the Supreme Courts, all Procurators practising before any Inferior Court, having severally taken out their annual Certificates, all Clerks or other Officers of any Court of Justice actually exercising the Duties of their Offices, all Gaolers or Keepers of Houses of Correction, all Professors in any University, all Physicians and Surgeons duly qualified as such, and actually practising, all Officers in His Majesty's Navy or Army in full Pay, all Officers of Customs or Excise, all Messengers at Arms, and other Officers of the Law, shall be and are hereby freed and exempted from being returned, and from serving upon Juries.

### **III      Rolls of Jurors, when and how to be made up.**

And be it further enacted, That the Sheriff of each County, and the Stewart of each Stewartry in *Scotland*, shall, on or before the First Day of *January* One thousand eight hundred and twenty-six, make up a Roll of Persons within his County or Stewartry respectively, who are qualified as aforesaid, and liable to serve as Jurors ; and the Names and Designations of all such Persons shall be entered in a Book, to be called " The General Jury Book," to be kept in the Sheriff or Stewart Clerk's Office of each County or Stewartry, and to be open on all lawful Days to the Inspection and Examination of any Person who shall require such Inspection, on Payment of a Fee of One Shilling.

### **IV      Provision for Special Juries.**

And be it further enacted, That as soon as such Roll or List of Jurors, qualified as aforesaid, shall have been made up and inserted in the said General Jury Book, the Sheriff and Stewart of every County and Stewartry in *Scotland* shall select therefrom the Names of all Persons qualified to be Special Jurors, in Terms of an Act passed in the Fifty-fifth Year of the Reign of His late Majesty King *George*. the Third, intituled *An Act to facilitate the Administration of Justice in that Part of the United Kingdom called Scotland, by the extending of Trial by Jury to Civil Causes* ; and such Names so selected shall be entered in a Book to be called " The Special Jury Book, " to be kept) in the Sheriff or Stewart Clerk's Office of each County or Stewartry, and to be open for Inspection as herein directed with regard to the General Jury Book ; and the Persons whose Names shall be entered in such Special Jury Book, shall be liable to serve as Special Jurors in all Civil Causes ordered to be tried by Special Juries, and on all Criminal Trials as herein-after directed; provided always, that the Names of Persons so selected as aforesaid for Special Jurors shall, notwithstanding thereof, remain in the said General Jury Book.

### **V      Provision with respect to the Counties of Edinburgh and Lanark.**

Provided always, and be it enacted, That the Sheriff of the County of *Edinburgh* in entering the Names of Jurors, as well in the General as in the Special Jury Book as aforesaid shall divide the same into Three separate Parts, one containing the Names of Persons residing in the City of *Edinburgh* and its Environs, in so far as the same are comprehended within the Bounds of Police, as defined by an Act passed in the Third

Year of the Reign of His present Majesty intituled *An Act for watching, cleansing, and lighting the Streets of the City of Edinburgh and adjoining Districts, for regulating the Police thereof, and for other Purposes relating thereto* ; another Part containing the Names of those residing in the Town of Leith and its Environs, as comprehended within the Bounds of the Police thereof; and a Third Part containing the Names of those residing in the rest of the County of *Edinburgh* ; and that the Sheriff of the County of *Lanark* shall in like Manner divide the Names of Jurors as aforesaid into Two Parts, the one containing the Names of Persons residing in *Glasgow*, including *Anderston*, *Gorbals*, and the *Calton*, and the other containing the Names of those residing in the rest of the County of *Lanark*.

**VI Sheriffs of Haddington and Linlithgow to send Lists to the Sheriff of Edinburgh.**

And be it enacted, That the Sheriffs of *Haddington* and *Linlithgow* shall, on or before the Eighth Day of *January* One thousand eight hundred and twenty-six, transmit certified Copies of the Lists, both General and Special, so made up by them, to the Sheriff of *Edinburgh* ; from which shall be taken the Names of Jurors when required, as directed by this Act. ,

**VII Numbers to be returned by the Sheriff of each County.**

And be it enacted, That when the Attendance of Jurors is required for Trials before the High Court of Justiciary at *Edinburgh*, or before the Court of Exchequer, or Judge Admiral, or in the Jury Court when held in *Edinburgh*, Notices, Writs, or Precepts shall be issued from the said respective Courts to the Sheriff of *Edinburgh*, specifying the Number of Jurors required; and the said Sheriff shall thereupon return a List taken from the said General Jury Book, in the Order in which they therein appear, subscribed by him, containing the Number of Persons required, which Return, when made to the High Court, of Justiciary or to the Judge Admiral, where Forty-five Jurors are required, shall contain Twenty-four for the City of *Edinburgh*, Six for the Town of Leith, Six, for the Remainder of the County of *Edinburgh*, Four for the County of *Linlithgow*, and Five for the County of *Haddington*, or as near as may- be in these Proportions, according to the Number required, more or less than Forty-five : Provided always, that in all Criminal Trials One-third of the Number required, or if the Number required cannot be divided equally into Thirds, a Number as nearly as can be to a Third, more or less, at the Discretion of the Sheriff, shall be Persons qualified as Special Jurors, and shall be distinguished in the Return accordingly: Provided, that in the Event of the List so to be taken from the General Jury Book not being found to contain the said Proportion of special Jurors, the Deficiency shall be supplied by Names to be taken from the Special jury Book; and this Rule shall in like Manner be observed in regard to Returns from all other Counties;

**VIII Number of Jurors required to attend at the Circuits.**

And be it enacted, That when the Attendance of Jurors at the Circuits is required, Notice shall be given by the Clerk of Court to the Sheriffs of the Counties, or Stewarts of the Stewartries within the Circuit, of the Number of Jurors required; and each Sheriff or Stewart shall thereupon return to the said Clerk a List subscribed by him, taken from the General and Special Jury Books aforesaid, containing the Number of Persons so required ; which Return, where Forty-five Jurors are required, shall contain Ten for the County of *Berwick*, Seven for the County of *Peebles*, Eight for the County of *Selkirk*, Twenty for the County of *Roxburgh*, Thirty for the County of *Dumfries*,

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Fifteen for the Stewartry of *Kircudbright*, Ten for the County of *Wigton*, Thirty-five for the County of *Ayr*, Ten for the County of *Renfrew*, Twenty-one for the City of *Glasgow*, *Anderston*, *Gorbals*, and the *Calton*, Nine for the rest of the County of *Lanark*, Five for the County of *Dumbarton*, Ten for the County of *Bute*, Thirty-five for the County of *Argyle*, Twenty-five for the County of *Stirling*, Ten for the County of *Clackmannan*, Ten for the County of *Kinross*, Fifteen for the County of *Perth*, Fifteen for the County of *Fife*, Fifteen for the County of *Forfar*, Ten for the County of *Kincardine*, Twenty-five for the County of *Aberdeen*, Ten for the County of *Banff*, Six for the County of *Elgin*, Six for the County of *Nairn*, Eighteen for the County of *Inverness*, Nine for the County of *Ross and Cromarty*, Three for the County of *Sutherland*, and Three for the County of *Caithness* ; and wherever a greater Number than Forty-five Jurors shall be required, the Numbers in the Return aforesaid shall be increased according to the Proportions above specified : Provided always, that it shall be competent for the Court of Justiciary, as Circumstances may require, to alter these Proportions by Act of Adjournal.

#### **IX Provision for Jurors in Inferior Courts.**

And be it enacted, That in all Criminal Trials in any Inferior Court the Clerk of such Court shall be furnished with Names from the Jury Books of the County in which the Court is held, containing the Number of Persons required, One-third being Parsons qualified as Special Jurors.

#### **X Order in which Names of Jurors are to be taken.**

Provided always, and be it enacted, That the Sheriffs and Stewarts in all Returns of Jurors made by them to any Court whatsoever, shall take the Names in regular Order, beginning at the Top of the Lists in the said Jury Books, in each of the Counties and Districts foresaid respectively, as required; and as often as any Juro shall be returned to them, they shall mark or cause to be marked, in the said General Jury Book of their respective Counties or Stewartries, and also in the Special Jury Book in the Case of Special Jurors, the Date when any such Juror shall have been returned to serve ; and in all such Returns they shall commence with the Name immediately after the last in the preceding Return, without regard to the Court to which the Return was last made, and taking the subsequent Names in the order in which they shall have been entered, as herein directed, and so to the End of the Lists respectively.

#### **XI Lists of Jurors to be renewed.**

And be it enacted, That the Sheriff or Stewart of every County or Stewartry in *Scotland* shall prepare, in the Manner herein directed, new and correct Lists of Jurors, in such Time as the same Way completed, and entered in Books as aforesaid, to be deposited in the Sheriff or Stewart Clerk's Office, before the first Lists shall have been completely gone through; and so span as, the whole Names contained in, any of the former Lists shall have been returned, to serve as Jurors, the Sheriff or Stewart shall proceed to take the Names of those required from the new Lists so prepared, beginning at the Top, and proceeding regularly to the End as herein directed; and as often as and immediately before any List shall have been completely gone through, a new List shall be prepared and entered in Books as aforesaid, and be made use of in the Manner herein directed.

**XII Jurors in the Case of Landed Men.**

And be it enacted, That where a Person shall by Law be entitled to the Privilege of having a Majority of Landed Men for Jurors on his Trial, the Sheriff or Stewart, when required, shall make a Return of Names of Landed Men, in the Order in which such Names appear in the Books aforesaid, so that a Majority of the jurors contained in such Return shall be Landed Men.

**XIII Jurors as returned to serve on Trials.**

And be it enacted, That the Lists returned as herein directed by the Sheriffs and Stewards to the Clerks of Court, and none other, shall be used for the several Trials for which the same shall have been required.

**XIV Penalty on Sheriffs making up Lists and returning Jurors contrary to the Provisions of this Act. No Irregularity in Lists to be an Objection to Jurors.**

And be it enacted, That every Instance of wilful and unwarranted Departure on the Part of any Sheriff from the Provisions of this Act in regard to the making up of Lists, and of returning of Jurors to any Court, shall subject such Sheriff in a Penalty of Fifty Pounds, to be recovered by summary Complaint before the High Court or Circuit Court of Justiciary; One Half of which Penalty shall belong to His Majesty, and the other Half to the Party suing for the same : Provided always, that no Irregularity in making up the Lists as .herein directed, or in transmitting the same, or in the Warrant of Citation, or in summoning Jurors, or in returning any Execution of Citation, shall constitute an Objection to Jurors whose Names shall be served on any Person accused of any Crime, reserving always to the Court to judge of the Effect of an Objection founded on any felonious Act by which Jurors may be returned to serve in any Case contrary to the Provisions of this Act.

**XV Provision where more than Forty-five Jurors shall be required.**

And be it enacted, That it shall and may be lawful for the Lord Justice Clerk, or any One of the Lords Commissioners of Justiciary, and they are hereby authorized and empowered at any Time to direct to be summoned as Jurors to serve on any Criminal Trial in the High Court or Circuit Court of Justiciary, any such Number of Persons exceeding Forty-five, as may be deemed necessary; and it is hereby provided, that the Warrants for summoning Jurors shall only require the Signature of One of the said Judges, and it shall not be necessary to annex a Copy of the Signature of such Judge to the List of Assize served on the Accused.

**XVI Peremptory Challenges allowed.**

And be it enacted, That it shall' be lawful for each Person on Trial before any Criminal Court to challenge Five of the Jurors, and also for the Prosecutor to challenge Five of the Jurors in all, for any one Trial, without being obliged to assign any Reason therefor; and which Challenge shall be made when the Name of each Juror is drawn as herein directed, and shall not afterwards be allowed, and such Challenge shall of itself disqualify the Person or Persons challenged from serving as a Juror or Jurors on such Trial: Provided always, that of the Five Special Jurors to be chosen, not more than Two shall be allowed to be so challenged by each Person accused, or by the Prosecutor: Provided always, that such Challenges without Reason assigned shall nowise deprive

a Person accused, or the Prosecutor, of the Right respectively competent to them to object to any Juror or Jurors on Cause shewn, but declaring that if such Objection shall be founded on the Want of sufficient Qualification as provided by this Act, such Objection shall only be proved by the Oath of the Juror objected to; and it shall not be competent to take any Objection to any Juror after he shall have been sworn to serve.

**XVII Number of Jurors to be returned by Sheriffs, and how to be chosen for Trials.**

And be it enacted, That in all Criminal Trials by Jury, the Number of Jurors to be returned by the Sheriffs and Stewarts to the Criminal Court shall be Forty-five, unless otherwise directed, as herein mentioned ; and the Jurors for the Trial of any Case shall be chosen in open Court, by Ballot from the Lists of Persons summoned, and served upon the Accused; and for that Purpose the Clerk of Court shall cause the Name and Designation of each Juror to be written on a separate Piece of Paper or Parchment, all the Pieces being of the same Size, and shall cause the Pieces to be rolled up, as nearly as may be, in the same Shape, and the Names of the Special Jurors shall be put together into one Box or Glass, and the Remainder into another, and being respectively mixed, the Clerk shall draw out the said Pieces of Parchment or Paper One by One from both Boxes or Glasses, in the Proportion of One from the Box containing the Names of the Special Jurors and Two from the other Box; and if any of the Persons whose Names shall be so drawn shall not appear, or shall be challenged, with or without Cause assigned, and set aside, then such farther Number shall be drawn until the Number required for the Trial shall be made out ; and the Persons so drawn and appearing, and being sworn, shall be the Jury to try the Accused, and their Names shall be taken down and recorded in the Minute Book kept by the Clerk ; but providing that when Challenges are made and Jurors set aside, their Places shall be filled up with other Names, by drawing by Ballot as aforesaid from the Box or Glass containing the Description of Jurors challenged respectively: Provided that where the Accused is a Landed Man, and a Return of Jurors made accordingly, a Majority of the Jury for Trial shall be taken by Ballot from the List of Landed Men returned by the Sheriff, as herein directed, and the Remainder from the List of Jurors not Special, subject always to Challenge as aforesaid.

**XVIII Jurors once chosen may continue to serve.**

And be it enacted, That the Jurors chosen for any particular Trial may, when that Trial is disposed of, without any new Ballot, serve on the Trials of other Persons accused, provided such Persons and the Prosecutor consent thereto, and provided also, that the Names of such Jurors are contained in the List of Assize served on the Accused, and that such Jurors are duly sworn to serve on each successive Trial.

**XIX Jurors may be excused.**

And be it further enacted, That the several Courts foresaid shall respectively have Power to excuse any one or more Jurors from serving on any Trial or Trials, the Grounds of such Excuse being stated in open Court.

**XX Provision as to Verdicts.**

And be it enacted, That all Verdicts in the High Court or Circuit Court of Justiciary, and in the Court of the Judge Admiral, and of any Inferior Judge, whether the Jury are unanimous or not, and whether upon a Consultation in the Jury Box or" after having

retired and been enclosed, shall be returned by the Mouth of the Chancellor of the Jury, unless when the Court shall direct written Verdicts to be returned ; and the same Rules shall apply in regard to the receiving of such Verdicts, as are observed in the Case of unanimous Verdicts in the Court of Justiciary: Provided always, that in all Cases of Verdicts being returned by the Mouth of the Chancellor of the Jury, where the Jury shall not be unanimous in their Verdict, the Chancellor shall announce the same, so that an Entry thereof may be made in the Record ; and provided also, that when in such Case a Jury is inclosed, none of the Jurors shall be allowed to separate or to hold Communication with other Persons, until their Verdict shall have been returned in their Presence by the Mouth of their Chancellor.

## **XXI Union of Counties for Trials in Cases of High Treason.**

And whereas in Cases of High Treason, and Misprisions of High Treason, a sufficient Number of Jurors for the Grand and Petty Juries cannot be had in some Counties of *Scotland*, and in others there is no suitable Court House, or proper Means for conducting Trials in such Cases; be it therefore enacted, That in all Cases of High Treason or Misprision of High Treason in *Scotland*, under any Commission of Oyer and Terminer that shall be issued by His Majesty, the Counties of *Edinburgh*, *Haddington*, and *Linlithgow*, shall be held to be one County, under the Description of the County of *Edinburgh*, whereof the Sheriff Depute of *Edinburgh* shall be held to be Sheriff; the Counties of *Roxburgh*, *Berwick*, *Selkirk*, and *Peebles* shall be held to be one County, under the Description of the County of *Roxburgh*, whereof the Sheriff Depute of *Roxburghshire* shall be held to be Sheriff; the County of *Dumfries* and the Stewartry of *Kirkcudbright* shall be held to be one County, under the Description of the County of *Dumfries*, whereof the Sheriff Depute of *Dumfriesshire* shall be held to be Sheriff; the Counties of *Ayr* and *Wigton* shall be held to be one County, under the Description of the County of *Ayr*, whereof the Sheriff Depute of *Ayrshire* shall be held to be Sheriff; the Counties of *Argyle* and *Bute* shall be held to be one County, under the Description of the County of *Argyle*, whereof the Sheriff Depute of *Argyleshire* shall be held to be Sheriff; the Counties of *Lanark*, *Dumbarton*, and *Renfrew* shall be held to be one County, under the Description of the County of *Lanark*, whereof the Sheriff Depute of *Lanarkshire* shall be held to be Sheriff; the Counties of *Stirling*, *Clackmannan*, and *Kinross* shall be held to be one County, under the Description of the County of *Stirling*, whereof the Sheriff Depute of *Stirlingshire* shall be held to be Sheriff; the Counties of *Perth*, *Forfar*, and *Fife* shall be held to be one County, under the Description of the County of *Perth*, whereof the Sheriff Depute of *Perthshire* shall be held to be Sheriff; the Counties of *Aberdeen*, *Banff*, and *Kincardine* shall be held to be one County, under the Description of the County of *Aberdeen*, whereof the Sheriff Depute of *Aberdeenshire* shall be held to be Sheriff; the Counties of *Inverness*, *Ross* and *Cromarty*, *Elgin* and *Nairn*, *Sutherland* and *Caithness*, and the Stewartries of *Orkney* and *Zetland*, shall be held to be one County, under the Description, of the County of *Inverness*, whereof the Sheriff Depute of *Invernesshire* shall be held to be Sheriff. And it is hereby provided and declared, that it shall and may be lawful for any such Commission of Oyer and Terminer to sit in any Town or Place in any of the several Counties so held to be one County, whereof the County in which the Treason or Misprision of Treason may have been committed is one, and there to inquire into and determine all Treasons and Misprisions of Treason committed in any of the several Counties so held to be one County, in the same way as such Commission might inquire into and determine any Treasons or Misprisions of Treason committed in the Place or County in which such Commission may so sit; and upon Precepts being issued by any such Commission of Oyer and Terminer, to any of the foresaid Sheriffs or their Substitutes respectively of *Edinburgh*, *Roxburgh*, *Dumfries*, *Ayr*,

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*Argyle, Lanark, Stirling, Perth, Aberdeen, or Inverness*, such Sheriff or his Substitute shall be entitled to require that certified Copies of all Lists of Jurors made up within the several Counties of which he is to be held as Sheriff be transmitted to him, and he shall thereupon return such a Number of qualified Persons to serve on Grand and Petit Juries as shall be required pursuant to the said Commission; and the said Sheriffs shall in virtue of said Precepts give Notice to all Sheriffs, Justices of Peace, Chief Constables, Ministers, and Officers of the said Counties, to do and execute such Things as shall be required of them; for all which Purposes, and for performing whatever else may be required of them by the said Commission, the Warrant of any such Sheriff or his Substitute shall be equally good and effectual within the said several Counties of Which he is hereby declared to be Sheriff, as if such Warrant had applied only to the particular County over which the Jurisdiction of such Sheriff in other respects extends : Provided always, that nothing in this Act contained shall be held to apply to Trials of High Treason or Misprision of High Treason, save and except in so far as relates to the Union of Counties herein-before made.

**XXII 3 G. 4 c. 85 repealed.**

And be it enacted, That an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act to allots peremptory Challenge of Jurors in Criminal Trials in Scotland*, shall be held as repealed from and after the First Day of *January* One thousand eight hundred and twenty-six, when this Act, and the several Clauses, Provisions, and Regulations herein contained, shall commence and take effect.