



# Conjugal Rights (Scotland) Amendment Act 1861

1861 CHAPTER 86

**1 A Wife deserted by her Husband may apply for an Order to protect Property which she has or may acquire by her own Industry, or which she may succeed to.**

A Wife deserted by her Husband may, at any Time after such Desertion, apply by Petition to any Lord Ordinary of the Court of Session, or in the Time of Vacation to the Lord Ordinary on the Bills, for an Order to protect Property which she has acquired or may acquire by her own Industry after such Desertion, and Property which she has succeeded to or may succeed to or acquire Right to after such Desertion, against her Husband or his Creditors, or any Person claiming in or through his Right; and the Lord Ordinary shall appoint such Petition to be intimated in the Minute Book of the Court of Session, and to be served upon the Husband; and the Husband, or any Creditor of the Husband, or any other Person claiming in or through his Right, shall be entitled to lodge Answers to the said Petition, and if the Husband be furth of *Scotland*, the Petition shall be executed edictally against him on an induciae of Twenty-one Days; and upon considering such Petition the Lord Ordinary shall require Evidence of such Desertion, and on being satisfied thereof pronounce an Interlocutor giving to the Wife Protection of her Property as aforesaid against the Husband and all Creditors or Persons claiming under or through him; and if Answers be lodged to the said Petition, the Lord Ordinary may, on considering the same, and, if he consider it necessary, after hearing Parties, allow a Proof to them of their respective Averments, which Proof he shall take himself, and either write the Evidence with his own Hand, in which Case it shall be read over to the Witness by the Judge, and signed by the Witness, if he can write, or the Lord Ordinary shall record the Evidence by dictating it to a Clerk, in which Case it shall, when taken down, be read over and signed as above; or the Lord Ordinary shall cause the Evidence to be taken down and recorded by a Writer, skilled in Shorthand Writing, in manner after mentioned, and it shall be competent to the Lord Ordinary, in special Cause shown, instead of taking such Proof, to grant a Commission to take said Proof elsewhere than in *Edinburgh*, in which Case he may pronounce an Interlocutor setting forth such special Cause, and granting Commission to take such Proof, and if satisfied after Proof of the Fact of such Desertion, and that the same was without reasonable Cause, he shall pronounce an Interlocutor giving to the Wife Protection as aforesaid, and he shall appoint Intimation of the said Interlocutor having been pronounced to be

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

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made in One or more Newspapers published within the County within which the Wife is resident, or in such other Newspapers as the Lord Ordinary may appoint.