



Court of Session Act 1868

CHAPTER 100

COURT OF SESSION ACT 1868

- 1 Short Title.
- 2 Interpretation of Terms.
- 3 Commencement of Act.

I.—JUDICIAL ARRANGEMENTS.

- 4 Sittings of Court of Session regulated.
- 5 Court may extend Sittings of Inner House in certain Cases.
- 6 Blank Days of Lords Ordinary abolished.
- 7 Court to meet at 10 a.m.
- 8 Divisions may meet on Mondays during Session.
- 9 Quorum of Teind Court which shall meet on alternate Mondays.
- 10 Registration Appeals to be heard on *Monday*.
- 11 Hearings before consulted Judges to be taken on Mondays.
- 12 Case of Illness or Absence of Judges provided for.

II.—SUMMONS.

- 13 Summonses may be signed by any Agent practising before the Court of Session.
- 14 Induciae of Summonses and other Writs passing the Signet shortened.
- 15 As to proving lost Summonses or Pleading.
- 16 Certified Copy may be used in place of Original in Service of Summonses and Writs.
- 17 Lord Advocate's Concurrence not to be necessary in Actions of Reduction-Improbation and Ranking and Sale.

Status: This is the original version (as it was originally enacted).

- 18 Warrant of Inhibition may be inserted in Will of Summons. Publication of such Warrants and Letters of Inhibition.
- 19 Summonses against certain Defenders, &c. may be served by Sheriff Officers.
- 20 Amendment of Summonses and Pleadings in undefended Causes.
- 21 Party appearing not to state Objections to Execution of Summonses, &c.

III.—CALLING AND DECREE IN ABSENCE.

- 22 New Procedure in reference to calling of Summonses and Enrolment for Decree.
- 23 Mode of obtaining Decrees in Absence.
- 24 Certain Decrees in Absence to have Effect as Decrees in foro.

IV.—RECORD, MOTIONS, AND PROBATION.

- 25 Revisal of Pleadings not to be allowed as Matter of course.
- 26 Procedure after Pleadings completed, and Adjustment of Pleadings.
- 27 Procedure after Record closed, and Adjustment of Issues.
- 28 Review of certain Interlocutors of the Lord Ordinary.
- 29 Amendment of Records in defended Actions.
- 30 Pleadings in Actions of Multiplepounding.
- 31 Motions in the Outer House.
- 32 Regulations as to Time of addressing the Court in Proofs under the Conjugal Rights and Evidence Acts.
- 33 Time of Trial of Cases under the Conjugal Rights and Evidence Acts.

V.—JURY TRIAL.

- 34 Exceptions taken at a Jury Trial may be insisted in, either by Motion for new Trial, or by Bill of Exceptions.
- 35 Form of Bill of Exceptions; Evidence need not be set forth at Length in the Bill.
- 36 Verdict may be taken subject to the Opinion of the Court on a Point reserved.
- 37 Evidence may of Consent be taken in Shorthand.
- 38 Special Case may be substituted for Special Verdict.
- 39 Abandonment of Action in the course of a Trial.
- 40 Pursuer recovering less than 5l. of Damages not to recover. Expenses if the Judge shall certify.
- 41 Provision for Payment of deficient Stamp Duty pursuant to Judge's Certificate to be final.
- 42 Clerk to remit the Duty, &c. to Commissioners of Inland Revenue.
- 43 Certain Exemptions from serving as Jurors abolished.
- 44 In Civil Causes Juries to consist of Eight Common and Four Special Jurors.
- 45 Mode of returning Jurors.
- 46 Provisions for Trial of Civil Causes by Jury at Circuit.
- 47 Jurors to be cited by registered Post Letter.
- 48 Verdicts may be returned by a Majority.
- 49 Remuneration of Jurors.

50 Inferior Court Agents to act at Jury Trials on Circuit.

VI.—INNER HOUSE PROCEDURE.

- 51 Form of Reclaiming Notes, and Time of presenting.
- 52 Effect of a Reclaiming Note against a Final Judgment.
- 53 Definition of Final Judgment in the Outer House.
- 54 No Appeal allowed against Interlocutory Judgment without Leave; Effect of such Appeal.
- 55 Disposal of such Reclaiming Notes.
- 56 After Reclaiming Note against a Final Judgment, Cause not to be remitted to Outer House.
- 57 Inner House may order Repayment of Money, &c.
- 58 Hearing of Motion for new Trials, &c.
- 59 Provision for Rehearing before Five Judges in case of equal Division of Opinion
- 60 Cases of Difficulty and Importance may be referred to Seven Judges in place of to the whole Court.
- 61 New Trial not to be granted if Court equally divided.
- 62 Amendment of 29 & 30 Vict. c.112 s. 3.
- 63 Special Cases on Questions of Law.

VII.—APPEALS FROM INFERIOR COURTS.

- 64 Process of Advocation abolished.
- 65 Appeals substituted for Advocation.
- 66 Form of Note of Appeal.
- 67 Not competent to appeal after Six Months from Date of Final Judgment.
- 68 Time at which Interlocutors of Inferior Courts may be extracted.
- 69 Effect of Appeals under this Act.
- 70 Notice of Appeal.
- 71 Form of bringing Appeals into Court of Session.
- 72 Proof and Judgment upon Appeals.
- 73 Appeal under s.40 of 6 G.4 c.120.
- 74 Procedure in place of Advocations ob contingentiam.
- 75 Exclusion of Review in such Cases.
- 76 Appeals substituted for Advocations under special Enactments.
- 77 Provisions for completing Record in Processes removed to the Court of Session by Appeal.
- 78 Exclusion of Review by Advocation under special Enactments to imply Exclusion of Review by Appeal.
- 79 Regulation of Interim Possession pending Appeal to the Court of Session.
- 80 How far Provisions of Part VII to apply to depending Actions.

VIII.—ACCOUNTINGS, SUSPENSIONS, AND SUMMARY PETITIONS.

- 81 Accountant may be required to attend Debate, and assist in settling the Terms of the Remit.
- 82 Accountant to have Power to compel Production of Documents, and Attendance of Parties and Witnesses.

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- 83 In case of Default Accountant to proceed ex parte.
- 84 Accountant may apply to Court for special Direction.
- 85 Parties may appeal from Accountant, or move the Court for special Direction.
- 86 Accountant to report Results in the Form of a Certificate of his Opinion.
- 87 Court empowered to take the Assistance of the Accountant in applying their Judgment so as to bring out Results.
- 88 Procedure when Remit to Accountant made by the Lord Ordinary.
- 89 Lord Ordinary on Bills, &c. may grant Warrant ad factum praestandum.
- 90 As soon as Note passed in Bill Chamber, Cause to be come Court of Session Process.
- 91 Questions of Possession or specific Performance may be presented in the Form of a summary Petition.
- 92 Appointment of Judicial Reporters on summary Petitions.

IX.—MISCELLANEOUS PROVISIONS.

- 93 Procedure in Time of Vacation.
- 94 Lord Ordinary may sign Interlocutors in Vacation.
- 95 New Procedure in place of Actions of Wakening.
- 96 New Procedure in place of Actions of Transference.
- 97 New Procedure in place of combined Actions of Wakening and Transference.
- 98 Transference of Actions depending in the Inner House.
- 99 Not competent to object to Productions after Record closed.
- 100 Amendment of Conjugal Rights Act.
- 101 Cognition of the Insane regulated.
- 102 Bonds of Caution for Judicial Factor for Lunatics to be approved of by Principal Clerks of Session only.
- 103 Regulation as to Declinature of Jurisdiction.
- 104 Annual Returns to be made to Parliament.
- 105 Salaries of certain Officers to be regulated.
- 106 Court to make Acts of Sederunt.
- 107 Repeal of Acts, &c.