



Court of Session (No. 2) Act 1838

1838 CHAPTER 118 1 and 2 Vict

An Act to make certain Alterations in the Duties of the Lords Ordinary, and in the Establishment of Clerks and Officers of the Court of Session and Court of Commissioners for Teinds in Scotland, and to reduce the Fees payable in those Courts. [16th August 1838]

Modifications etc. (not altering text)

- C1** Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2** Act repealed by [Court of Session Act 1850 \(c. 36\)](#), **s. 56** in so far only as it may be in any respect inconsistent or at variance with the provisions of that Act, by [Bill Chamber Procedure Act 1857 \(c. 18\)](#), **s. 8** in so far as necessary to give effect to that Act and in so far as inconsistent with Rules of Court by [S.I. 1948/1691](#) (1948 I, p. 3778) and 1965/321
- C3** Preamble (which recites [Court of Session Act 1810 \(c. 112\)](#), [Jury Trials \(Scotland\) Act 1815 \(c. 42\)](#), [Court of Session \(Records\) Act 1815 \(c. 70\)](#), [Jury Trials \(Scotland\) Act 1819 \(c. 35\)](#), [Court of Session Act 1821 \(c. 38\)](#), [Court of Session Act 1825 \(c. 120\)](#), [Court of Session Act 1830 \(c. 69\)](#) and [Public Revenue \(Scotland\) Act 1833 \(c. 13\)](#)) omitted under authority of [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#)

1—26. ^{F1}

Textual Amendments

- F1** The whole Act except S. 27 repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), **Sch. 2 Pt. I**

27 Teind clerks, extracts, accounts, &c.

The provisions and regulations for abridging the form of extracting degrees of the Court of Session contained in the ^{M1}said recited Court of Session Act 1810 and in this Act shall be and the same are hereby extended and applied to extracts of acts and decreets pronounced by the court of commissioners for teinds except in processes

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Court of Session (No. 2) Act 1838 (repealed). (See end of Document for details)

of valuation of teinds and other cases where full extracts may be required by the parties; and the provisions and regulations which are or may be applicable to auditing of accounts of expences in the Court of Session by the auditor of court shall be and the same are hereby extended and applied to accounts of expences in the court of commissioners for teinds, which shall be subject to be audited and taxed by the said auditor in like manner as accounts of expences in the Court of Session; and the business of the teind office shall in other respects continue as at present: Provided always, that in those cases in which the clerk of teinds may be appointed by remit from the court or lord ordinary, or may be employed by any party or parties in a cause, to act as an accountant, or in the preparation of states, schemes, or calculations for regulating or adjusting the rights of parties, the charges to be made by the clerk of teinds shall be regulated according to the time and labour in each particular case, but subject to the review and taxation of the auditor of the Court of Session in like manner as accounts of expences; and the emoluments arising from such remits to or employment of and charges by the said clerk of teinds shall belong to such clerk of teinds: Provided further, that it shall be competent to the court or lord ordinary, wherever it shall appear necessary for the due despatch of business, to make such remits to act as aforesaid to any other properly qualified person; and that it shall be competent to the parties, by mutual agreement, to employ any person whom they shall think proper to act as aforesaid, except in the preparation of schemes of locality: Provided also, that the said depute clerk of teinds shall continue to discharge the duty of extracting acts and decreets pronounced by the court of commissioners for teinds, and shall receive payment for preparing the same at the rate of [^{F2}2½p] for each page of one hundred and fifty words, and [^{F2}5p] for each page of states or schemes in figures, without any further charge for printing or stationery, the party ordering the first extract paying as aforesaid for each page both of the copy given out and of the record copy.

.....

Textual Amendments

F2 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

.....

Marginal Citations

M1 [1810 c. 112.](#)

28— ^{F3}
35.

.....

Textual Amendments

F3 The whole Act except S. 27 repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\), s. 52\(2\), Sch. 2 Pt. I](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Court of Session (No. 2) Act 1838 (repealed). (See end of Document for details)

SCHEDULE

F4

Textual Amendments

- F4** The whole Act except S. 27 repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), [Sch. 2 Pt. I](#)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Court of Session (No. 2) Act 1838 (repealed).