



Sheriff Courts (Scotland) Act 1907

1907 CHAPTER 51 7 Edw 7

PRELIMINARY

1 Short title.

This Act may be cited for all purposes as the Sheriff Courts (Scotland) Act 1907.

2^{F1}

Textual Amendments

F1 S. 2 repealed by [Statute Law Revision Act 1927 \(c. 42\)](#), [Sch. Pt. I](#)

3 Interpretation.

In construing this Act (unless where the context is repugnant to such construction)—

- (a) [^{F2} “sheriff principal”] includes [^{F2}sheriff];
- (b) “Tenant” includes sub-tenant;
- (c) “Lease” includes sub-lease;
- (d) “Action” [^{F3}or “cause”] includes every civil proceeding competent in the ordinary sheriff court;
- (e) “Person” includes company, corporation, or association and firm of any description nominate or descriptive, or any Board corporate or unincorporate;
- (f) “Sheriff clerk” includes sheriff-clerk depute;
- (g) “Agent” means a law-agent enrolled in terms of the ^{M1}Law Agents (Scotland) Act 1873;
- (h) “Final judgment” means an interlocutor which, by itself, or taken along with previous interlocutors, disposes of the subject-matter of the cause, notwithstanding that judgment may not have been pronounced on every

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question raised, and that expenses found due may not have been modified, taxed, or decerned for;

- (i)^{F4}
- (j) “Small Debt Acts” means and includes the Small Debt (Scotland) Acts 1837 to 1889, and Acts explaining or amending the same;
- (k) “Initial writ” means the statement of claim, petition, note of appeal, or other document by which the action is initiated;
- (l) “Procurator-Fiscal” means procurator-fiscal in the sheriff-court;
- (m)^{F5}
- (n) “Pursuer” means and includes any person making a claim or demand, or seeking any warrant or order competent in the sheriff court;
- (o) “Defender” means and includes any person who is required to be called in any action;
- (p) “Summary application” means and includes all applications of a summary nature brought under the common law jurisdiction of the [^{F2}sheriff principal], and all applications, whether by appeal or otherwise, brought under any Act of Parliament which provides, or, according to any practice in the sheriff court, which allows, that the same shall be disposed of in a summary manner, but which does not more particularly define in what form the same shall be heard, tried, and determined;
- (q)^{F6}

Textual Amendments

- F2** Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4
- F3** Words inserted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), Sch. 1
- F4** S. 3(i) repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. II
- F5** S. 3(m) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. I Gp. 3
- F6** S. 3(q) repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), Sch. 3

Marginal Citations

- M1** 1873 c. 63.

JURISDICTION

[^{F7}4] Jurisdiction.

The jurisdiction of the [^{F8}sheriffs principal], within their respective sheriffdoms shall extend to and include all navigable rivers, ports, harbours, creeks, shores, and anchoring grounds in or adjoining such sheriffdoms. And the powers and jurisdictions formerly competent to the High Court of Admiralty in Scotland in all maritime causes and proceedings, civil and criminal, including such as may apply to persons furth of Scotland, shall be competent to the [^{F8}sheriffs principal], provided the defender shall upon any legal ground of jurisdiction be amenable to the jurisdiction of the [^{F8}sheriff principal] before whom such cause or proceeding may be raised, and provided also that it shall not be competent to the [^{F8}sheriffs principal] to try any crime committed on the seas which it would not be competent for him to try if the crime had been committed on land; Provided always that where sheriffdoms are separated by a river, firth, or

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estuary, the [^{F8}sheriffs principal] on either side shall have concurrent jurisdictions over the intervening space occupied by water.]

Textual Amendments

- F7** S. 4 repealed so far as relating to criminal proceedings by Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 10 Pt. I**; extended by Hovercraft Act 1968 (c. 59), **s. 2**
- F8** Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), **s. 4**

5 Extension of jurisdiction.

Nothing herein contained shall derogate from any jurisdiction, powers, or authority presently possessed or in use to be exercised by the [^{F9}sheriffs principal] of Scotland, and such jurisdiction shall extend to and include—

- (1) Actions of declarator (except declarators of marriage or nullity of marriage, . . . ^{F10}):
 - (1A) ^{F11}
 - [^{F12}(2) Actions for aliment or separation (other than any action mentioned in subsection (2A) below) . . . ^{F13}]
 - [^{F14}(2A) Actions, arising out of an application under section 31(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, for the recovery of maintenance:]
 - [^{F15}(2B) Actions for divorce]
 - ^{F16}(2C)
- (3) Actions of division of commony and of division or division and sale of common property, in which cases the ^{M2}Division of Commonities Act 1695 concerning the division of commonities shall be read and construed as if it conferred jurisdiction upon the sherrif court in the same manner as upon the Court of Session:
- (4) Actions relating to questions of heritable right or title (except actions of adjudication save in so far as now competent and actions of reduction) including all actions of declarator of irritancy and removing, whether at the instance of a superior against a vassal or of a landlord against a tenant:
- (5) Suspension of charges or threatened charges upon the decrees of court granted by the [^{F9}sheriff principal] or upon decrees of registration proceeding upon bonds, bills, contracts or other obligations registered in the books of the sheriff court, the books of council and session, or any others competent . . . ^{F17}: . . . ^{F18}: . . . ^{F19}.

Textual Amendments

- F9** Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), **s. 4**
- F10** Words repealed (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**
- F11** S. 5(1A) which was inserted by Presumption of Death (Scotland Act) 1977 (c. 27), s.20(2), **Sch. 1** is repealed (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**
- F12** S. 5(2) substituted (S.) by virtue of Family Law (Scotland) Act 1985 (c. 37, SIF 49:3), s. 28(1), **Sch. 1 para. 1**

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- F13** Words repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**
- F14** S. 5(2A) inserted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), s. 85(3), **Sch. 2 para. 1(b)**
- F15** S. 5(2B) inserted by Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12, SIF 47), s. 1
- F16** S. 5(2C) repealed (1.11.1996) by 1995 c. 36, s. 105(5), **Sch. 5**; S.I. 1996/2203, art. 3, **Sch.**
- F17** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), ss. **15(a)**, 28(2), **Sch. 3**
- F18** Words repealed by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 54, **Sch. 14**
- F19** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), **Sch. 3**

Modifications etc. (not altering text)

- C1** S. 5 excluded by Land Registration (Scotland) Act 1979 (c. 33, SIF 31:3), ss. **21(6)**, 22(7)

Marginal Citations

- M2** Scots Act 1695 c. 69

[^{F20}5A Power of sheriff to order sheriff clerk to execute deeds relating to heritage.

- (1) This section applies where—
- an action relating to heritable property is before the sheriff; or
 - it appears to the sheriff that an order under this section is necessary to implement a decree of a sheriff relating to heritable property.
- (2) Where the grantor of any deed relating to the heritable property cannot be found or refuses or is unable or otherwise fails to execute the deed, the sheriff may—
- where subsection (1)(a) above applies, on application;
 - where subsection (1)(b) above applies, on summary application,
- by the grantee, make an order dispensing with the execution of the deed by the grantor and directing the sheriff clerk to execute the deed.
- (3) Where in pursuance of an order under this section a deed is executed by the sheriff clerk, it shall have the like force and effect as if it had been executed by the grantor.
- (4) In this section—
- “grantor” means a person who is under an obligation to execute the deed; and
- “grantee” means the person to whom that obligation is owed.]

Textual Amendments

- F20** S. 5A inserted (S.) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1), s. 17

[^{F21}6 Action competent in sheriff court.

[^{F22}Subject to section 8 of the ^{M3}Domicile and Matrimonial Proceedings Act 1973 [^{F23}and Chapter III of Part I of the Family Law Act 1986].] Any action competent in the sheriff court may be brought within the jurisdiction of the [^{F24}sheriff principal]—

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- (a) Where the defender (or when there are several defenders [^{F25}over each of whom a sheriff court has jurisdiction in terms of this Act] where one of them) resides within the jurisdiction, or having resided there for at least forty days . . . [^{F26}has ceased to reside there for less than forty days [^{F26}and has no known residence in Scotland]:
- (b) Where the defender carries on business, and has a place of business within the [^{F27}jurisdiction], and is cited either personally or at such place of business:
- (c) Where the defender is a person not otherwise subject to the jurisdiction of the courts of Scotland, and a ship or vessel of which he is owner or part owner or master, or goods, debts, money, or other moveable property belonging to him, have been arrested within the jurisdiction:
- (d) Where the defender is the owner or part owner or tenant or joint tenant, whether individually or as a trustee, of heritable property within the jurisdiction, and the action relates to such property or to his interest therein:
- (e) Where the action is for interdict against an alleged wrong being committed or threatened to be committed within the jurisdiction:
- (f) Where the action relates to a contract the place of execution or performance of which is within the jurisdiction, and the defender is personally cited there:
- (g) Where in an action of furthcoming or multiplepoinding the fund or subject in medio is situated within the jurisdiction; or the arrestee or holder of the fund is subject to the jurisdiction of the court:
- (h) Where the party sued is the pursuer in any action pending within the jurisdiction against the party suing:
- [^{F28}(i) where the action is founded on delict, and the delict forming the cause of action was committed within the jurisdiction”.]
- (j) Where the defender prorogates the jurisdiction of the court.]

Textual Amendments

- F21** S. 6 repealed by [Administration of Justice Act 1956 \(c. 46\)](#), s. 45(6) in relation to actions to which s. 45 of that Act applies
- F22** Words inserted by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), s. 12(7), **Sch. 4 para. 1**
- F23** Words inserted (S.) by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), s. 68(1), **Sch. 1 para. 3**
- F24** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4
- F25** Words inserted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F26** Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F27** Words substituted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F28** S. 6(i) substituted by [Law Reform \(Jurisdiction in Delict\) \(Scotland\) Act 1971 \(c. 55\)](#), s. 1(2)(3)

Modifications etc. (not altering text)

- C2** S. 6 repealed in part by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), s. 20(3)

Marginal Citations

- M3** 1973 c. 45.

7 ^{X1}Privative jurisdiction in causes under fifty pounds value.

.....^{F29}.....^{F30}, all causes not exceeding [^{F31}one thousand five hundred pounds] in value exclusive of interest

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and expenses competent in the sheriff court shall be brought and followed forth in the sheriff court only, and shall not be subject to review by the Court of Session:

. . . ^{F32}Provided . . . ^{F32} that nothing herein contained shall affect any right of appeal competent under any Act of Parliament in force for the time being.

Editorial Information

X1 Unreliable marginal note

Textual Amendments

F29 Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), **Sch. 3**

F30 Words repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), **Sch. 2 Pt. II**

F31 Words substituted by virtue of S.I. 1988/1993, **art. 2**

F32 Words repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), **Sch. 1**

Modifications etc. (not altering text)

C3 S. 7 extended (2.10.2000) by S.S.I. 2000/301, **rule 4**

8 ^{F33}

Textual Amendments

F33 S. 8 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), **Sch. 2 Pt. II**

9 ^{F34}

Textual Amendments

F34 S. 9 repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), **s. 1**

10 Privilege not to exempt from jurisdiction.

No person shall be exempt from the jurisdiction of the sheriff court on account of privilege by reason of being a member of the College of Justice.

SHERIFFS

11 ^{X2}Appointment of sheriffs and salaried sheriffs-substitute.

The right of appointing to the salaried offices of [^{F35}sheriff principal] and salaried [^{F35}sheriff] shall be vested in His Majesty, and shall be exercised on the recommendation of the [^{F36}Secretary of State].

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Editorial Information

X2 Unreliable marginal note

Textual Amendments

- F35 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4
- F36 Words substituted by virtue of Secretaries of State Act 1926 (c. 18), s. 1(3)

12, 13. F37

Textual Amendments

F37 Ss. 12, 13, 15, 16, 18 and 19 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

14 Salaries of sheriffs and sheriffs-substitute.

It shall be lawful to grant to any [^{F38}sheriff principal or sheriff] such salary as to the Treasury may seem meet, and every such salary shall be paid [^{F39}quarterly or otherwise in every year as the Treasury may determine], and shall be charged upon and be payable out of the Consolidated Fund.

Textual Amendments

- F38 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4
- F39 Words substituted by Sheriffs' Pensions (Scotland) Act 1961 (c. 42), s. 8(3), Sch. 1

Modifications etc. (not altering text)

- C4 S. 14 modified (9.11.1998) by 1998 c. 42, ss. 18(4)(e), 22(2) (with ss. 7(8), 22(5))
- S. 14 modified (27.9.1999) by 1999 c. 22, ss. 68(3)(a), 108(3) (with Sch. 14 para. 7(2))

15, 16. F40

Textual Amendments

F40 Ss. 12, 13, 15, 16, 18 and 19 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

17 Honorary sheriff-substitute.

The [^{F41}sheriff principal] may by writing under his hand appoint such persons as he thinks proper to hold the office of [^{F41}honorary sheriff] within his sheriffdom during his pleasure, and for whom he shall be answerable. An [^{F41}honorary sheriff], during the subsistence of his commission, shall be entitled to exercise the powers and duties appertaining to the office of [^{F41}sheriff]. An [^{F41}honorary sheriff] shall hold office, notwithstanding the death, resignation, or removal of the [^{F41}sheriff principal], until his commission shall be recalled by a succeeding [^{F41}sheriff principal]. In this section [^{F41}“sheriff principal”] does not include [^{F41}sheriff.]

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Textual Amendments

F41 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **s. 4**

18, 19. **F42**

Textual Amendments

F42 [Ss. 12, 13, 15, 16, 18](#) and 19 repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. I**

20 **F43**

Textual Amendments

F43 [S. 20](#) repealed by [Sheriffs' Pensions \(Scotland\) Act 1961 \(c. 42\)](#), s. 8(3), **Sch. 2**

21 **F44**

Textual Amendments

F44 [S. 21](#) repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. I**

22— **F45**
24.

Textual Amendments

F45 [Ss. 22–24](#) repealed by [Sheriff Courts and Legal Officers \(Scotland\) Act 1927 \(c. 35\)](#), **Sch.**

25, 26. **F46**

Textual Amendments

F46 [Ss. 25, 26](#) repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. I**

APPEALS

27 Appeal to sheriff.

Subject to the provisions of this Act an appeal to the [F47sheriff principal] shall be competent against all final judgments of the [F47sheriff] and also against interlocutors—

- (A) Granting or refusing interdict, interim or final;
- (B) Granting interim decree for payment of money other than a decree for expenses, or making an order ad factum præstandum;
- (C) Sisting an action;
- (D) Allowing or refusing or limiting the mode of proof . . . F48;
- (E) [F49Refusing a reponing note; or
- (F) Against which the [F47sheriff] either ex proprio motu or on the motion of any party grants leave to appeal;

Provided always that notwithstanding the death, resignation, or removal of a [F47sheriff principal] appeals may be taken from the judgment of the [F47sheriff], which appeals shall be heard by the succeeding [F47sheriff principal] when he shall enter upon office.

[F49It shall be competent for the [F47sheriff principal]. when the action is before him on appeal on any point, to open the record ex proprio motu, if the record shall appear to him not to have been properly made up, or to allow further proof.]

Textual Amendments

F47 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F48 Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2) ss. 11, 28(2), Sch. 3

F49 Words inserted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), Sch. 1

[F50]28 Appeal to Court of Session.

- (1) Subject to the provisions of this Act, it shall be competent to appeal to the Court of Session against a judgment either of a [F51sheriff principal or sheriff] if the interlocutor appealed against is a final judgment or is an interlocutor—
 - (a) Granting interim decree for payment of money other than a decree for expenses; or
 - (b) Sisting an action; or
 - (c) Refusing a reponing note; or
 - (d) Against which the [F51sheriff principal or sheriff] either ex proprio motu or on the motion of any party, grants leave to appeal:

. . . F52

- (2) Nothing in this section nor in section twenty-seven of this Act contained shall affect any right of appeal or exclusion of such right provided by any Act of Parliament in force for the time being.]

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Textual Amendments

F50 S. 28 substituted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), s. 2

F51 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F52 S. 28 proviso repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. II

Modifications etc. (not altering text)

C5 S. 28 applied (1.5.2003) by 2000 asp 7, ss. 22(7), 26(6), 37(2) (with s. 31); S.S.I. 2003/74, art. 2(2)(b)

29 Effect of appeal.

An appeal shall be effectual to submit to review the whole of the interlocutors pronounced in the cause, and shall be available to and may be insisted in by all other parties in the cause notwithstanding they may not have noted separate appeals. An appeal shall not prevent immediate execution of a warrant of sequestration for rent, or of warrants to take inventories, or place effects in custody ad interim, or warrants for interim preservation, and an interim interdict, although appealed against shall be binding till recalled.

30 **F53**

Textual Amendments

F53 S. 30 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), Sch. 3

31 **F54**

Textual Amendments

F54 S. 31 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), ss. 11, 28(2), Sch. 3

32 **F55**

Textual Amendments

F55 S. 32 repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), s. 1

33 **F56**

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Textual Amendments

F56 S. 33 repealed by [Juries Act 1949 \(c. 27\)](#), [Sch. 3](#)

REMOVINGS

34 Removings.

Where lands exceeding two acres in extent are held under a probative lease specifying a term of endurance, and whether such lease contains an obligation upon the tenant to remove without warning or not, such lease, or an extract thereof from the books of any court of record, shall have the same force and effect as an extract decree of removing obtained in an ordinary action at the instance of the lessor, or any one in his right, against the lessee or any party in possession, and such lease or extract shall, along with authority in writing signed by the lessor or any one in his right or by his factor or law agent, be sufficient warrant to any sheriff officer or messenger-at-arms of the sheriffdom within which such lands or heritages are situated to eject such party in possession, his family, sub-tenants, cottars, and dependants, with their goods, gear and effects, at the expiry of the term or terms of endurance of the lease: Provided that previous notice in writing to remove shall have been given—

- (A) When the lease is for three years and upwards not less than one year and not more than two years before the termination of the lease; and
- (B) In the case of leases from year to year (including lands occupied by tacit relocation) or for any other period less than three years, not less than six months before the termination of the lease (or where there is a separate ish as regards land and houses or otherwise before that ish which is first in date):

Provided that if such written notice as aforesaid shall not be given the lease shall be held to be renewed by tacit relocation for another year, and thereafter from year to year: Provided further that nothing contained in this section shall affect the right of the landlord to remove a tenant who has been sequestered under the ^{M4}Bankruptcy (Scotland) Act 1856, or against whom a decree of cessio has been pronounced under the ^{M5}Debtors (Scotland) Act 1880, or who by failure to pay rent has incurred any irritancy of his lease or other liability to removal: Provided further that removal or ejection in virtue of this section shall not be competent after six weeks from the date of the ish last in date: Provided further that nothing herein contained shall be construed to prevent proceedings under any lease in common form; and that the foregoing provisions as to notice shall not apply to any stipulations in a lease entitling the landlord to resume land for building, planting, feuing, or other purposes or to subjects let for any period less than a year.

Modifications etc. (not altering text)

C6 Reference to [Bankruptcy \(Scotland\) Act 1856 \(c. 79\)](#) to be construed as reference to [Bankruptcy \(Scotland\) Act 1913 \(c. 34\)](#); [Interpretation Act 1889 \(c. 63\)](#), [s. 38\(1\)](#)

Marginal Citations

M4 1856 c. 79.

M5 1880 c. 34.

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35 Letter of removal.

Where any tenant in possession of any lands exceeding two acres in extent (whether with or without a written lease) shall, either at the date of entering upon the lease or at any other time, have granted a letter of removal,^{F57} . . . such letter of removal shall have the same force and effect as an extract decree of removing, and shall be a sufficient warrant for ejection to the like effect as is provided in regard to a lease or extract thereof, and shall be operative against the granter of such letter of removal or any party in his right within the same time and in the same manner after the like previous notice to remove: Provided always that where such letter is dated and signed within twelve months before the date of removal or before the first ish, if there be more than one ish, it shall not be necessary that any notice of any kind shall be given by either party to the other.

Textual Amendments

F57 Words in s. 35 repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), Sch. 5 (with ss. 9(3)(5)(7), 13)

36 Notice to remove.

Where lands exceeding two acres in extent are occupied by a tenant without any written lease, and the tenant has given to the proprietor or his agent no letter of removal, the lease shall terminate on written notice being given to the tenant by or on behalf of the proprietor, or to the proprietor by or on behalf of the tenant not less than six months before the determination of the tenancy, and such notice shall entitle the proprietor, in the event of the tenant failing to remove, to apply for and obtain a summary warrant of ejection against the tenant and everyone deriving right from him.

Modifications etc. (not altering text)

C7 S. 36 applied (10.6.2002) by Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132), art. 2, {Sch. 1 rule 30.3} (with art. 3)

37 Notice of termination of tenancy.

In all cases where houses, with or without land attached, not exceeding two acres in extent, lands not exceeding two acres in extent let without houses, mills, fishings, shootings, and all other heritable subjects (excepting land exceeding two acres in extent) are let for a year or more, notice of termination of tenancy shall be given in writing to the tenant by or on behalf of the proprietor or to the proprietor by or on behalf of the tenant: Provided always that notice under this section shall not warrant summary ejection from the subjects let to a tenant, but such notice, whether given to or by or on behalf of the tenant, shall entitle the proprietor to apply to the [^{F58}sheriff principal] for a warrant for summary ejection in common form against the tenant and every one deriving right from him: Provided further that the notice provided for by this section shall be given at least forty days before the fifteenth day of May when the termination of the tenancy is the term of Whitsunday, and at least forty days before the eleventh day of November when the termination of the tenancy is the term of Martinmas.

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Textual Amendments

F58 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

Modifications etc. (not altering text)

C8 S. 37 applied (10.6.2002) by Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132), art. 2, {Sch. 1 rule 30.3} (with art. 3)

VALID FROM 27/11/2003

[^{F59}37A Exception for certain tenancies

The provisions of this Act relating to removings (including summary removings) shall not apply to or in relation to short limited duration tenancies or limited duration tenancies within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11).]

Textual Amendments

F59 S. 37A inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp. 11), ss. 94, 95(3)(4), Sch. para. 1 (with s. 95(1)); S.S.I. 2003/548, art. 2 (with art. 3, Sch.)

SUMMARY REMOVINGS

38 Summary removing.

Where houses or other heritable subjects are let for a shorter period than a year, any person by law authorised may present to the [^{F60}sheriff principal] a summary application for removing, and a decree pronounced in such summary cause shall have the full force and effect of a decree of removing and warrant of ejection. Where asuch a let is for a period not exceeding four months, notice of removal therefrom shall, in the absence of express stipulation, be given as many days before the ish as shall be equivalent to at least one-third of the full period of the duration of the let; and where the let exceeds four months, notice of removal shall, in the absence of express stipulation be given at least forty days before the expiry of the said period.

[^{F61}Provided that in no case shall notice of removal be given less than 28 days before the date on which it is to take effect.]

Textual Amendments

F60 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F61 S. 38 proviso added by Rent (Scotland) Act 1971 (c. 28), s. 135(3), Sch. 18 Pt. II

Modifications etc. (not altering text)

C9 S. 38 applied (10.6.2002) by Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132), art. 2, {Sch. 1 rule 30.3} (with art. 3)

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[^{F62}38A Notice of termination in respect of dwelling-houses.

Any notice of termination of tenancy or notice of removal given under section 37 or 38 above in respect of a dwelling-house, on or after 2nd of December 1974, shall be in writing and shall contain such information as may be prescribed by virtue of section 112 of the ^{M6}Rent (Scotland) Act 1984, and Rule 112 of Schedule 1 to this Act shall no longer apply to any such notice under section 37 above.]

Textual Amendments

F62 S. 38A inserted (S.) by virtue of [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339, **Sch. 23 para. 4**

Marginal Citations

M6 [1984 c.58\(39:4\)](#)

[^{F63}CONSISTORIAL CAUSES

Textual Amendments

F63 Ss. 38B, 38C inserted (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(1), **Sch. 1 para. 2**

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.

^{F64}38C]

Textual Amendments

F64 S. 38C repealed (1.11.1996) by [1995 c. 36, s. 105\(5\)](#), **Sch. 5**; [S.I. 1996/2203, art. 3](#), **Sch.**

PROCEDURE RULES

39 Procedure rules.

Subject to the provisions of any Act of Parliament in force after the passing of this Act, the procedure in all civil causes shall be conform to the rules of procedure set forth in the First Schedule hereto annexed. Such rules shall be construed and have effect as part of this Act.

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Modifications etc. (not altering text)

C10 S. 39 excluded (1.4.1997) by S.I. 1997/291, **rule 3.24**, Sch. 3

40 Court of Session to regulate fees, &c.

The Court of Session may from time to time, by Act of Sederunt, make such regulations, . . . ^{F65} for regulating the fees of agents [^{F66}(other than such of the fees of agents as the Secretary of State may regulate under or by virtue of section 14A of the ^{M7}Legal Aid (Scotland) Act 1967)] , officers, shorthand writers, and others, . . . ^{F67}, . . . ^{F68} Provided . . . ^{F69} that every such Act of Sederunt shall, within one week from the date thereof, be transmitted by the Lord President of the Court of Session to the [^{F70}Secretary of State], in order that it may be laid before the Houses of Parliament; and, if either of the Houses of Parliament shall within thirty-six days after it has been laid before them resolve that the whole or any part of such Act of Sederunt ought not to continue in force, the whole or such part thereof as shall be included in such resolution shall from and after the date of the passing of such resolution cease to be binding.

Textual Amendments

- F65** Words repealed by [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#), **Sch.**
- F66** Words inserted by [Divorce Jurisdiction, Court Fees and Legal Aid \(Scotland\) Act 1983 \(c. 12, SIF 47\)](#), s. 6(1), **Sch. 1 para. 7**
- F67** Words repealed by [Divorce Jurisdiction, Court Fees and Legal Aid \(Scotland\) Act 1983 \(c. 12, SIF 47\)](#), s. 6(2), **Sch. 2**
- F68** Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1** and [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#), **Sch.**
- F69** Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F70** Words substituted by virtue of [Secretaries of State Act 1926 \(c. 18\)](#), s. 1(3)

Marginal Citations

M7 [1967 c.43 \(77:2\)](#).

41 ^{F71}

Textual Amendments

F71 S. 41 repealed by [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#), **Sch.**

42— ^{F72}
48.

Textual Amendments

F72 Ss. 42–48 repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. II**

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49 F73

Textual Amendments
F73 S. 49 repealed by Execution of Diligence (Scotland) Act 1926 (c. 16), s. 7

SUMMARY APPLICATIONS

50 **Summary applications.**

In summary applications (where a hearing is necessary) the [^{F74}sheriff principal] shall appoint the application to be heard at a diet to be fixed by him, and at that or any subsequent diet (without record of evidence unless the [^{F74}sheriff principal] shall order a record) shall summarily dispose of the matter and give his judgment in writing: Provided that wherever in any Act of Parliament an application is directed to be heard, tried, and determined summarily or in the manner provided by section fifty-two of the ^{M8}Sheriff Courts (Scotland) Act 1876, such direction shall be read and construed as if it referred to this section of this Act: Provided also that nothing contained in this Act shall affect any right of appeal provided by any Act of Parliament under which a summary application is brought.

Textual Amendments
F74 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

Modifications etc. (not altering text)
C11 S. 50 applied (14.7.2000) by S.S.I. 2000/233, art. 44(4)
C12 S. 50 applied (23.5.2008) by The Dumfries and Galloway Council (Port William) Harbour Empowerment Order 2008 (S.S.I. 2008/188), art. 33(4) (with arts. 53-56)
C13 S. 50 applied (23.5.2008) by The Dumfries and Galloway Council (Isle of Whithorn) Harbour Empowerment Order 2008 (S.S.I. 2008/189), art. 33(4) (with arts. 53-56)
C14 S. 50 applied (23.5.2008) by The Dumfries and Galloway Council (Garlieston) Harbour Empowerment Order 2008 (S.S.I. 2008/190), art. 33(4) (with arts. 53(1), 54-56)

Marginal Citations
M8 1876 c. 70.

51 F75

Textual Amendments
F75 S. 51 repealed by Statute Law (Repeals) Act 1973 (c. 39), Sch. 1 Pt. XII

52 F76

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Textual Amendments

F76 [S. 52](#) repealed by [Statute Law Revision Act 1927 \(c. 42\)](#), [Sch. Pt. I](#)

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