



# Court of Session Act 1850

## 1850 CHAPTER 36 13 and 14 Vict

### 23 **Protestations for not calling and enrolling regulated.**

Where protestation shall be put up in the minute book of the Court of Session in reference to any summons, suspension, or . . . <sup>F1</sup> and warrant is issued for extract thereof, if it be a protestation for not calling, such extract shall contain a decerniture for three pounds [<sup>F2</sup>15p] of protestation money, as expences in lieu of such sum of protestation money as would in that case be inserted in the extract according to the present practice; and if the protestation be for not enrolling, but after the calling and return of the summons or other initial writ, with or without defences or answers, as the case may require, the defender or respondent shall be entitled to his just expences as between party and party; and the auditor of court shall tax the account of these expences accordingly, as in the case of a decree in absence, on production to him of the protestation as given out for extract, or of a certificate by the keeper of the minute book that the same has been given out for extract; and the account so taxed shall be a sufficient warrant to the extractor to insert the taxed amount as the just expences, together with the expence of extract, in the extract protestation, in lieu of the sum at present inserted as expences in such extract: Provided always, that a pursuer may be reponed against a protestation for not calling at any time not later than ten days after the same has been given out for extract, whether extract shall have issued or not, by lodging with the clerk, in order to calling, his summons or other writ, with the relative documents, accompanied by the receipt of the agent for the defender for the said sum of three pounds [<sup>F2</sup>15p] of protestation money, or consigning the money itself in the hands of the clerk, for the use of the agent for the defender, and payable to him on demand; and that a pursuer may also be reponed, within the like period, against a protestation for not enrolling and insisting, by enrolling his summons or other writ in the outer house roll, and forthwith lodging that writ, with the enrolling clerk's certificate of enrolment annexed, in the hands of the clerk, as thenceforward a depending process, accompanied by the receipt of the agent for the defender for the taxed amount of the protestation money and expence of extract, or, in lieu thereof, consigning the money itself in the hands of the clerk for the use of such agent, and payable to him on demand: Provided also, that whenever a summons or other writ shall have been duly enrolled by the pursuer in the outer house roll, whether protestation shall have been put up or not, the same shall thenceforth become to all intents and

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*Changes to legislation: There are currently no known outstanding effects for the Court of Session Act 1850, Section 23. (See end of Document for details)*

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purposes a depending process, under control of the Lord Ordinary and of the court, until finally disposed of by interlocutor.

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**Textual Amendments**

- F1** Word repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)  
**F2** Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

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There are currently no known outstanding effects for the Court of Session Act 1850, Section 23.