



# Court of Session Act 1868

1868 CHAPTER 100 31 and 32 Vict

## V.—JURY TRIAL

**40 Pursuer recovering less than 5*l.* of damages not to recover expenses if the judge shall certify.**

Where the pursuer in any action of damages in the Court of Session recovers by the verdict of a jury less than five pounds, he shall not be entitled to recover or obtain from the defender any expenses in respect of such verdict, unless the judge before whom such verdict is obtained shall certify on the interlocutor sheet that the action was brought to try a right besides the mere right to recover damages; or that the injury in respect of which the action was brought was malicious; or, in the case of actions for defamation or for libel, that the action was brought for the vindication of character, and was in his opinion fit to be tried in the Court of Session.

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**Modifications etc. (not altering text)**

C1 Ss. 15–44 repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), [Sch. 2 Pt. I](#) (and re-enacted in part as referred to in [Sch. 2 Pt. II](#) of that Act)

**Changes to legislation:**

There are currently no known outstanding effects for the Court of Session Act 1868, Section 40.