



# Courts Act 1672

## 1672 CHAPTER 40

### Act concerning the Regulation of the Judicatories

The Kings Maiestie being Desireous that the publick Judicatories of this Kingdome might be soe regulat that all abuses which had or might probably creep into the same be redressed and prevented and that the best most summar and equall way of bringing and calling of Processis for Dispensing of Justice should by settled as his subjects might be releived and secured against oppression and exactions and that justice might be administrat to them with expedition and as litle trouble and charge as may be Did by a Commission vndir the great seall of the 21 September 1669 Authorize some Noblemen and others of his privie Councill and Session to consult settle and sett doune such Rules and Orders as they should judge necessary for these ends And to returne ane accompt of their proceedings to his Maiestie that He might take such course therein as in his Royall wisdome he should think fitt In obedience wherunto the Commissioners having had severall meitings and consulted on the best and reddiest wayes for the prosecution of his Maiesties royall intention for the good and ease of his subjects and finding the same to be of such importance as required a longer time to make a full settlement therin Yet in the moneth of March 1670 they agried unto condiscended vpon and did returne to his Maistie certain rules and articles of Regulation without prejudice of what vpon furder Consideration they should thereafter offer for a full settlement And his Maiestie haveing Considered these Rules and Articles Did by His Royall Allowance of the fourth of Junij 1670 Ratifie and Approve the same and did Ordaine them to be duely observed in all tyme comeing And the Commissioners having since that tyme kept severall meitings and taken that affair into their furder Consideration have resolved vpon some other Articles Rules and Amendments which being joyned with the former and again offered to his Maiesties Consideration His Maiestie doeth with advice and consent of his Estates of Parliament Ratifie and Approve the same And Ordaines them to be recorded in the bookes of Parliament and duly observed by all his Maiesties Subjects Of the which Articles the Tenor follows

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

- C1 Short title given by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\), Sch. 2](#)
- C2 This Act is listed in 12mo edition as [1672 c. 16](#)

*Changes to legislation: There are currently no known outstanding effects for the Courts Act 1672. (See end of Document for details)*

CONCERNING THE SESSION

1 ..... F1

**Textual Amendments**  
F1 Concerning the Session Art. 1 repealed by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#)

2—17. .... F2

**Textual Amendments**  
F2 Concerning the Session Arts. 2–17 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

18 ..... F3

**Textual Amendments**  
F3 Concerning the Session Art. 18 repealed by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#)

19  
That Decreits in foro contradictorio befor the Lords of Sessioun be not again suspended vpon reasouns competent to have bein proponed or which wer repelled in the former Decreit And to the effect it may be knowne with the least expence what Decreits are in foro That the Keeper of the minute booke make vp a Booke of the Decreits in foro according as the same shall each day be given in to him by the Clerks expressing the names of all the defenders for whome their is Compearance . . . <sup>F4</sup> And where there is once Compearance for any pairty and Defences proponed the Decreit shall be holdin as done in foro and all the dispute proponed by the Advocats shall be insert therin Albeit the advocat theraftir past from his Compearance . . . <sup>F4</sup>

**Textual Amendments**  
F4 Words repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

20—  
24. .... F5

**Textual Amendments**  
F5 Concerning the Session Arts. 20–24 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

25 ..... F6

*Changes to legislation: There are currently no known outstanding effects for the Courts Act 1672. (See end of Document for details)*

**Textual Amendments**

**F6** Concerning the Session Art. 25 repealed by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#)

**26—** ..... **F7**  
**30.**

**Textual Amendments**

**F7** Concerning the Session Arts. 26–30 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

**31** ..... **F8**

**Textual Amendments**

**F8** Concerning the Session Art. 31 repealed by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#)

**32** That the Keipers of the generall registers of horneings and Inhibitions and of Seasings and Reversious . . . <sup>F9</sup> be carefull to booke all horneings Inhibitions Interdictions Seasings Reversions and others registrat by them And that they make exact minute bookes relateing to the saids Registers these of horneings Inhibitions and Interdictions containing the names Sirnames and designations of the Parties principall and Cautioners And these of seasings Reversions and others appointed by the act of Parliament to be registrat in that Register containing the names and designations of the pairties and the common designation of the Lordshipe Barrony or Tennendry of the severall lands mentioned in the writ And that the Clerk of Register or any whome he shall appoint every quarter of the yeir compare the minut bookes with the generall Registers and subscribe the Minute bookes at the collationing of the same . . . <sup>F9</sup> Whilke minute bookes respective forsaid alswell for the space of fourtie yeires bygone as in tyme comeing the Clerk shall be obleidged to make patent to all his Maiesties leidges whensoever they shall desire to sie the same . . . <sup>F10</sup>

**Textual Amendments**

**F9** Words repealed by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#)

**F10** Words repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

**33** ..... **F11**

**Textual Amendments**

**F11** Concerning the Session Art. 33 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

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CONCERNING THE JUSTICE COURTS

Seing Causes Criminall are of the greatest importance and may extend to the lives and liberties of any of his Maiesties Subjects and their persones and fortunes And Seing the punishment of Crimes is of the greatest consequence for the safety and security of his Maiesties persone and authoritie and the Peace and Quietnes of the Kingdome And therfor matters Criminall ought to be determined in the most solemn exact and regular way that the Loyall and Innocent may be in full security and offenders may be punished either in the most publict places of the Kingdome or in the Places where the Crimes have been committed to terrifie others from the like That whereas formerlie assessors from time to time wer appointed to the Justice generall in matters of Importance which being ambulatory cannot be soe convenient as if all the members of that Court wer settled and choysen by his Maiestie of fitt persones who might make it their worke to make a just and constant procedure in matters Criminall

1 For that effect that . . . <sup>F12</sup> the Lords of Session be joyned to the Justice-Generall and Justice-Clerk and all of them invested with the same and equall power and Jurisdiction in all Criminall Causes That the Justice-Generall being present preside and in his absence the Justice Clerk and in absence of both that these present elect one of their number to preside . . . <sup>F12</sup>

**Textual Amendments**  
**F12** Words repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

2 . . . . . <sup>F13</sup>

**Textual Amendments**  
**F13** Concerning the Justice Courts Art. 2 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

3 . . . . . <sup>F14</sup>

**Textual Amendments**  
**F14** Concerning the Justice Courts Art. 3 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 10 Pt. I](#)

4 That for the splendour of that Court all the Judges sitt in red robes faced with white that of the Justice Generalls being lined with Ermine for distinction from the rest

5 . . . . . <sup>F15</sup>

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*Changes to legislation: There are currently no known outstanding effects for the Courts Act 1672. (See end of Document for details)*

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**Textual Amendments**

**F15** Concerning the Justice Courts Art. 5 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

6 That it be left and recommended to the Judges of that Court to regulat the inferior officers therof and order every other thing concerning the said Court

7 That a convenient roome be appointed for their meitings Benches for the Judges a place for the Justice generall more eminent then the seats of the other Judges That the Advocats Clerk Assize and Pannells have distinct places appointed to them

8 .....<sup>F16</sup>

**Textual Amendments**

**F16** Concerning the Justice Courts Art. 8 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 10 Pt. I](#)

9 .....<sup>F17</sup>

**Textual Amendments**

**F17** Concerning the Justice Courts Art. 9 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

10 .....<sup>F18</sup>

**Textual Amendments**

**F18** Concerning the Justice Courts Art. 10 repealed by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 10 Pt. I](#)

11 That when any Criminall libell or summons of Exculpatione are given and execute against any pairty that at the same time Lists of the witnessis to be adduced for proveing of the said lybell and summons . . .<sup>F19</sup> be also given to them To the effect the Party may know what to object against the saids witnessis . . .<sup>F19</sup> and may take furth diligences for summoning of witnessis for proving of their objections why any contained in the saids Lists should not be admitted to be a witness . . .<sup>F19</sup>

**Textual Amendments**

**F19** Words repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

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CONCERNING THE EXCHEQUER

**1—4.** ..... <sup>F20</sup>

**Textual Amendments**

**F20** Concerning the Exchequer Arts. 1–4 repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Courts Act 1672.