



Court of Session Act 1988

1988 CHAPTER 36

PART IV

OTHER CAUSES

Consistorial causes

19 Lord Advocate as party to action for nullity of marriage or divorce.

^{F1}

Textual Amendments

^{F1} S. 19 repealed (4.5.2006) by Family Law (Scotland) Act 2006 (asp. 2), ss. 45(2), 46(2), Sch. 3; S.S.I. 2006/212, art. 2

^{F2}20

Textual Amendments

^{F2} S. 20 repealed (1.11.1996) by 1995 c. 36, s. 105(5), Sch. 5 (with s. 103(1)); S.I. 1996/2203, art. 3(3), Sch. Table

Exchequer causes

21 Exchequer causes to have precedence.

Exchequer causes shall at all times take precedence of and have preference over all other causes in the Court.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Court of Session Act 1988, Part IV is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

22 Lord Advocate to sue and be sued on behalf of the Crown.

Except where any enactment otherwise provides, all exchequer causes brought—

- (a) on behalf of the Crown, shall be at the instance of [^{F3}the appropriate Law Officer within the meaning of section 4A of the Crown Suits (Scotland) Act 1857];
- (b) by any person alleging any ground of action against the Crown, shall be directed against [^{F3}the appropriate Law Officer within the meaning of section 4A of the Crown Suits (Scotland) Act 1857].

Textual Amendments

F3 Words in s. 22(a)(b) substituted (20.5.1999) by 1999/1042, arts. 1(2)(b), 4, Sch. 2 Pt. 1 para. 8

23 Lord Advocate may be heard last.

In all exchequer causes, [^{F4}the appropriate Law Officer within the meaning of section 4A of the Crown Suits (Scotland) Act 1857] shall, in pleading on behalf of the Crown, have the privilege of being heard last.

Textual Amendments

F4 Words in s. 23 substituted (20.5.1999) by S.I. 1999/1042, arts. 1(2)(b), 4, Sch. 2 Pt. 1 para. 8

24 Appeal to [^{F5}Supreme Court].

An appeal may be brought to the [^{F6}Supreme Court] against the judgment of the Inner House in an exchequer cause as if it were a judgment of the Inner House on the whole merits of the cause in an ordinary action.

Textual Amendments

F5 Words in s. 24 sidenote substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 49\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

F6 Words in s. 24 substituted (1.10.2009) by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 49\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

Petitions

25 Disposal of petitions initiated in Outer House.

- (1) The Lord Ordinary before whom any cause initiated by a petition comes shall have power to dispose of the petition himself.
- (2) For the purpose of disposing of such a cause, the Lord Ordinary may make such investigation and require such assistance from professional persons or persons of science or of skill as he thinks fit.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Court of Session Act 1988, Part IV is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) On any such cause coming before him, the Lord Ordinary may grant commission to take the depositions of havers and the evidence of witnesses as provided in section 10 of this Act with respect to an action.

Summary trials

26 Summary trials.

- (1) The parties to any dispute or question to which this section applies may present a petition in the Outer House setting out the dispute or question and craving that it may be decided by a particular Lord Ordinary, and any such petition shall stand referred to such Lord Ordinary for his determination of the dispute or question.
- (2) The parties to any action in dependence in the Outer House not affecting the status of any person may agree by joint minute, or in such other manner as may be prescribed, that the provisions of this section shall apply to the action, and thereafter those provisions shall apply accordingly.
- (3) Provision shall be made by act of sederunt under this Act for securing that causes under this section shall be disposed of with as little delay as possible.
- (4) This section shall apply to any dispute or question not affecting the status of any person which might competently be the subject of any cause in the Outer House, or which might competently have been the subject of any such cause but for section 7 of the ^{M1}Sheriff Courts (Scotland) Act 1907.

Marginal Citations

M1 1907 c.51.

Special cases

27 Special cases.

- (1) Where any parties interested, whether personally or in some fiduciary or official capacity, in the decision of a question of law are agreed upon the facts, and are in dispute only on the law applicable to those facts, it shall be competent for them without raising any proceeding, or at any stage of any proceeding, to present to the Inner House a case (in this section referred to as a special case) signed by their counsel setting out the facts upon which they are so agreed and the question of law arising from those facts; and the parties may ask the Court either for its opinion or for its judgment on that question of law.
- (2) The Court may, if it thinks fit, in case of difficulty or importance or of equal division, appoint a special case to be reheard by a larger court under section 36 of this Act.
- (3) The Court shall dispose of all questions of expenses arising in a special case.
- (4) Any judgment pronounced by the Court by virtue of this section shall be extractible in common form.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Court of Session Act 1988, Part IV is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Any judgment pronounced by the Court by virtue of this section shall be liable to review by the [^{F7}Supreme Court] unless such review is excluded by consent of all the parties to the special case.

Textual Amendments

- F7** Words in s. 27(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 49\(3\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

Status:

Point in time view as at 01/10/2009.

Changes to legislation:

Court of Session Act 1988, Part IV is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.