



# Court of Session Act 1868

## CHAPTER 100

### COURT OF SESSION ACT 1868

- 1 Short title.
- 2 Interpretation of terms.
- 3 .....

#### I.—JUDICIAL ARRANGEMENTS

- 4, 5 .....
- 6—8 .....
- 9 Quorum of Teind Court which shall meet on alternate Mondays.
- 10 .....
- 11 .....
- 12 .....

#### II.—SUMMONS

- 13 .....
- 14 Induciæ of summonses and other writs passing the signet shortened.
- 15 As to proving lost summonses or pleading.
- 16 Certified copy may be used in place of original in service of summonses and writs.
- 17 Lord Advocate's concurrence not to be necessary in actions of reduction-improbation and ranking and sale.
- 18 Warrant of inhibitions may be inserted in will of summons. Publication of such warrants and letters of inhibition.
- 19 .....
- 20 Amendment of summonses and pleadings in undefended causes.
- 21 Party appearing not to state objections to execution of summonses, &c.

*Changes to legislation: There are currently no known outstanding effects  
for the Court of Session Act 1868. (See end of Document for details)*

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**III.—CALLING AND DECREE IN ABSENCE**

- 22 New procedure in reference to calling of summonses and enrolment for decree.
- 23 Mode of obtaining decrees in absence.
- 24 Certain decrees in absence to have effect as decrees in foro.

**IV.—RECORD, MOTIONS, AND PROBATION**

- 25 Revisal of pleadings not to be allowed as matter of course.
- 26 Procedure after pleadings completed, and adjustment of pleadings.
- 27 .....
- 28 Review of certain interlocutors of the Lord Ordinary.
- 29 Amendment of records in defended actions.
- 30 Pleadings in actions of multiplepinding.
- 31 .....
- 32 Regulations as to time of addressing the Court in proofs under the Conjugal Rights and Evidence Acts.
- 33 .....

**V.—JURY TRIAL**

- 34 Exceptions taken at a jury trial may be insisted in, either by motion for new trial, or by bill of exceptions.
- 35 Form of bill of exceptions; evidence need not be set forth at length in the bill.
- 36 Verdict may be taken subject to the opinion of the Court on a point reserved.
- 37 Evidence may of consent be taken in shorthand.
- 38 Special case may be substituted for special verdict.
- 39 Abandonment of action in the course of a trial.
- 40 Pursuer recovering less than 5*l.* of damages not to recover expenses if the judge shall certify.
- 41 Provision for payment of deficient stamp duty pursuant to judge’s certificate to be final.
- 42 .....
- 43 Certain exemptions from serving as jurors abolished.
- 44 In civil causes juries to consist of eight common and four special jurors.
- 45 Mode of returning jurors.
- 46 .....
- 47 Jurors to be cited by registered post letter.
- 48 .....
- 49 .....
- 50 Inferior court agents to act at jury trials on circuit.

**VI.—INNER HOUSE PROCEDURE**

- 51 .....
- 52 Effect of a reclaiming note against a final judgment.
- 53 Definition of final judgment in the Outer House.
- 54, 55 .....

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- 56 After reclaiming note against a final judgment, cause not to be remitted to Outer House.
- 57 Inner House may order repayment of money, &c.
- 58 Hearing of motion for new trials, &c.
- 59 Provision for rehearing before five judges in case of equal division of opinion.
- 60 Cases of difficulty and importance may be referred to seven judges in place of to the whole Court.
- 61 New trial not to be granted if Court equally divided.
- 62 Amendment of 29 & 30 Vict. c. 112. s. 3.
- 63 Special cases on questions of law.

#### **VII.—APPEALS FROM INFERIOR COURTS**

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- 65 Appeals substituted for advocation.
- 66 Form of note of appeal.
- 67 Not competent to appeal after six months from date of final judgment.
- 68 Time at which interlocutors of inferior courts may be extracted.
- 69 Effect of appeals under this Act.
- 70 Notice of appeal.
- 71 Form of bringing appeals into Court of Session.
- 72 Proof and judgment upon appeals.
- 73 Appeal under s. 40. of 6 G. 4. c. 120.
- 74 Procedure in place of advocations ob contingentiam.
- 75 Exclusion of review in such cases.
- 76 Appeals substituted for advocations under special enactments.
- 77 Provisions for completing record in processes removed to the Court of Session by appeal.
- 78 Exclusion of review by advocation under special enactments to imply exclusion of review by appeal.
- 79 Regulation of interim possession pending appeal to the Court of Session.
- 80 .....

#### **VIII.—ACCOUNTINGS, SUSPENSIONS, AND SUMMARY PETITIONS**

- 81 Accountant may be required to attend debate, and assist in settling the terms of the remit.
- 82 Accountant to have power to compel production of documents, and attendance of parties and witnesses.
- 83 In case of default accountant to proceed ex parte.
- 84 Accountant may apply to Court for special direction.
- 85 Parties may appeal from accountant, or move the Court for special direction.
- 86 Accountant to report results in the form of a certificate of his opinion.
- 87 Court empowered to take the assistance of the accountant in applying their judgment as to bring out results.
- 88 Procedure when remit to accountant made by the Lord Ordinary.
- 89 Lord Ordinary on bills, &c. may grant warrant ad factum præstandum.
- 90 As soon as note passed in Bill Chamber, cause to become Court of Session process.

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- 91 Questions of possession or specific performance may be presented in the form of a summary petition.
- 92 Appointment of judicial reporters on summary petitions.

**IX.—MISCELLANEOUS PROVISIONS**

- 93 Procedure in time of vacation.
- 94 Lord Ordinary may sign interlocutors in vacation.
- 95 New procedure in place of actions of wakening.
- 96 New procedure in place of actions of transference.
- 97 New procedure in place of combined actions of wakening and transference.
- 98 Transference of actions depending in the Inner House.
- 99 Not competent to object to productions after record closed.
- 100 Amendment of Conjugal Rights Act. 24 & 25 Vict. c. 86.
- 101 Cognition of the insane regulated.
- 102 .....
- 103 Regulations as to declinature of jurisdiction.
- 104 .....
- 105, 106 .....
- 107 .....

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