



Confirmation to Small Estates (Scotland) Act 1979

1979 CHAPTER 22

An Act to amend the law relating to confirmation to small estates in Scotland; and for connected purposes. [29th March 1979]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Confirmation to small estate.

- (1) In the Intestates Widows and Children (Scotland) Act 1875—
- (a) in section 3 (confirmation to small intestate estate)—
 - (i) for the words " the net estate of an intestate is of a value less than one thousand pounds, and his gross estate is of a value less than three thousand pounds, his widow or any one or more of his children, or in the case of an intestate widow any one or more of her children," there shall be substituted the words " the whole estate of an intestate is of a value not exceeding £10,000 art applicant for confirmation thereto " ; and
 - (ii) for the words " without the payment of any fee therefor save as is provided in Schedule C annexed, to this Act " there shall be substituted the words " on payment of the requisite fee " ;
 - (b) in section 5 (commissary clerk to be satisfied as to value of estate), for the words " either of the values " there shall be substituted the words " the value " ;
 - (c) in section 7 (acts of sederunt) the words " ; but the total amount to be charged to applicants shall not in any case exceed the sums mentioned in Schedule C annexed to this Act " shall cease to have effect;
 - (d) in Schedule A (form of inventory and relative oath) for the words " 150l. " there shall be substituted the words " £10,000 " ;

- (e) in Schedule B (form of confirmation) for the words " 150l. " there shall be substituted the words " £10,000 " ; and
 - (f) Schedule C (fees) shall cease to have effect.
- (2) In the Small Testate Estates (Scotland) Act 1876—
- (a) in section 3 (confirmation to small testate estate)—
 - (i) for the words " the net estate of a testate is of a value less than one thousand pounds, and his gross estate is of a value less than three thousand pounds the executor of such testate " there shall be substituted the words " the whole estate of a testate is of a value not exceeding £10,000 an applicant for confirmation thereto " ; and
 - (ii) for the words " without the payment of any fee therefor save as is provided in Schedule C annexed to this Act" there shall be substituted the words " on payment of the requisite fee " ;
 - (b) in section 5 (commissary clerk to be satisfied as to value of estate) for the words " either of the values " there shall be substituted the words " the value " ;
 - (c) in section 7 (procedure and fees) the words " ; but the total amount to be charged to executors shall not in any case exceed the sums mentioned in Schedule C annexed to this Act " shall cease to have effect;
 - (d) in Schedule A (form of inventory and relative oath) for the words " 150l. " there shall be substituted the words " £10,000 " ; and
 - (e) Schedule C (fees) shall cease to have effect.
- (3) The Secretary of State may by order made by statutory instrument amend the provisions mentioned in subsections (1)(a), (d) and (e) or (2)(a) and (d) above to alter the limit of value at or below which confirmation may be expedited under the said Act of 1875 or 1876 (as the case may be).
- (4) An order under subsection (3) above shall be subject to annulment in pursuance- of a resolution of either House of Parliament.

2 Repeals.

The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

3 Short title, extent, construction and commencement.

- (1) This Act may be cited as the Confirmation to Small Estates (Scotland) Act 1979 and extends to Scotland only.
- (2) This Act, except this section, shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint.
- (3) For the purposes of sections 21, 22 and 82(1) of the Scotland Act 1978 (which provide, respectively, for the exercise of executive powers, the making of subordinate legislation and construction) this Act shall be deemed to be an enactment passed before the passing of that Act.

SCHEDULE

Section 2.

REPEALS

Chapter	Short Title	Extent of Repeal
38 & 39 Vict. c 41.	The Intestates Widows and Children (Scotland) Act 1875.	In section 7 the words " ; but the total amount to be charged to applicants shall not in any case exceed the sums mentioned in Schedule C annexed to this Act". Schedule C.
39 & 40 Vict. c. 24.	The Small Testate Estates (Scotland) Act 1876.	In section 7, the words " ; bat the total amount to be charged to executors shall not in any case exceed the sums mentioned in Schedule C annexed to this Act". Schedule C.
44 & 45 Vict. c. 12.	The Customs and Inland Revenue Act 1881.	Section 34.
9 & 10 Eliz. 2. c. 37.	The Small Estates (Representation) Act 1961.	The whole Act.