



Confirmation of Executors (Scotland) Act 1823

1823 CHAPTER 98 4 Geo 4

An Act for the better granting of Confirmations in Scotland.

[19th July 1823]

Modifications etc. (not altering text)

- C1 Short title “The Confirmation of Executors (Scotland) Act 1823” given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble omitted under authority of [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#)
- C3 Words of enactment repealed by [Statute Law Revision Act 1888 \(c. 3\)](#) and [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#)
- C4 The Confirmation Act 1690 cited or referred to by its short title under authority of [Statute Law Revision Act 1893 \(c. 14\), s. 3](#)

Commencement Information

- I1 Act wholly in force at Royal Assent.

[1.] **Right to confirmation to transmit to representatives.**

In all cases of intestate succession, where any person or persons who, at the period of the death of the intestate, being next of kin, shall die before confirmation be expedite, the right of such next of kin shall transmit to his or her representatives, so that confirmation may and shall be granted to such representatives, in the same manner as confirmations might have been granted to such next of kin immediately upon the death of such intestate.

2 **Court to regulate caution to be found.**

Caution shall not be required to be found by

[^{F1}(a) an executor–nominate; or

(b) an intestate’s spouse [^{F2}or civil partner] who shall be executor–dative and has right, by virtue of sections 8 and 9(2) of the Succession (Scotland) Act 1964, to the whole estate.

Changes to legislation: There are currently no known outstanding effects for the Confirmation of Executors (Scotland) Act 1823. (See end of Document for details)

[^{F3}See also section 3 of the Intestates Widows and Children (Scotland) Act 1875.]
In][^{F4}cases where caution is required to be found] the court granting confirmation shall fix the amount of the sum for which caution shall be found by the person or persons to whom confirmation shall be granted, not exceeding the amount confirmed.

Textual Amendments

- F1** Words substituted by Law Reform (Miscellaneous Provisions)(Scotland) Act 1980 (c. 55, SIF 36:3), s. 5
- F2** Words in s. 2(b) inserted (4.3.2016) by [Succession \(Scotland\) Act 2016 \(asp 7\)](#), **ss. 19(1)**, 31(1)
- F3** Words in s. 2 inserted (4.3.2016) by [Succession \(Scotland\) Act 2016 \(asp 7\)](#), **ss. 18(4)(a)**, 31(1)
- F4** Words in s. 2 substituted (4.3.2016) by [Succession \(Scotland\) Act 2016 \(asp 7\)](#), **ss. 18(4)(b)**, 31(1)
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Modifications etc. (not altering text)

- C5** S. 2 power to modify conferred (4.3.2016) by [Succession \(Scotland\) Act 2016 \(asp 7\)](#), **ss. 19(2)**, 31(1)

3 Partial confirmations to cease.

Every person requiring confirmation shall confirm the whole moveable estate of a deceased person known at the time, to which such person shall make [^{F5}declaration]: Provided always, that it shall and may be lawful to eik to such confirmation any part of such estate that may afterwards be discovered, provided the whole of such estate so discovered shall be added, upon [^{F5}declaration] as aforesaid: Provided nevertheless, that nothing herein contained shall affect or alter the provision made with respect to special assignations by the ^{M1}Confirmation Act 1690.

Textual Amendments

- F5** Word substituted (1.3.1997) by Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 (c. 40, SIF 76:2), s. 74(1), Sch. 8 para. 20(1); [S.I. 1996/2894, art.3, Sch.](#) (as amended by [S.I. 1996/2966, art. 2](#))
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Marginal Citations

- M1** [Scots Act 1690 c. 56.](#)

4 In cases of Executor's, Creditor, confirmation to be granted.

Provided further, that in the case of confirmation by executor's creditor, such confirmation may be limited to the amount of the debt and sum confirmed to which such creditor shall make [^{F6}declaration]: Provided always, that notice of every application for confirmation by any executor's creditor shall be inserted in the Edinburgh Gazette, at least once, immediately after such application shall be made; in evidence whereof, a copy of the Gazette in which such notice shall have been inserted shall be produced in court before any such confirmation shall be further proceeded in.

Changes to legislation: There are currently no known outstanding effects for the Confirmation of Executors (Scotland) Act 1823. (See end of Document for details)

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Textual Amendments

- F6** Word substituted (1.3.1997) by Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 (c. 40, SIF 76:2), s. 74(1), Sch. 8 para. 20(2); S.I. 1996/2894, art. 3, Sch. (as amended by S.I. 1997/2966, art. 2)

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