



Presumption of Death (Scotland) Act 1977

1977 CHAPTER 27

16 Entailed estates.

- (1) The following provisions of this section shall apply where decree has been granted under section 2 of this Act declaring the death of the missing person who is the heir in possession of an entailed estate.
- (2) In the circumstances set out in subsection (1) above, the next heir may apply to the court for authority to disentail the estate and the court may make it a condition of granting such authority that the next heir gives security of such amount and in such manner as the court may direct to meet any contingent interest of the heir if he shall reappear and, within the period of five years beginning with the date of the said decree, application for the relative variation order shall be made.
- (3) Where, in the circumstances set out in subsection (1) above—
 - (a) the estate has not been disentailed,
 - (b) the absent heir reappears,
 - (c) application for the relative variation order is made within the period of five years beginning with the date of the said decree, and
 - (d) the relative variation order is pronounced,then, notwithstanding section 5 of this Act, the absent heir who reappears shall be entitled to resume possession of the estate but shall not be entitled to recover the fruits or income of the estate from any following heir in respect of the period of that heir's possession.
- (4) In this section, "the court" means the Court of Session.

Changes to legislation:

There are currently no known outstanding effects for the Presumption of Death (Scotland) Act 1977, Section 16.