

SCHEDULE 2

Paragraph 3

ENACTMENTS REPEALED OR REVOKED

Year of session and Chapter, or Statutory Instrument year and number	Title of Enactment	Extent of repeal or revocation
1868 c. 101	Titles to Land Consolidation (Scotland) Act 1868	<p>Sections 29 and 30.</p> <p>In section 33—</p> <ul style="list-style-type: none"> (a) from the words “no evidence shall be led” to the words “after the lapse of thirty days from such date; and”; (b) the words “, after the lapse of the times respectively above mentioned; and”; (c) from the words “and any parole evidence” to the words “one thousand eight hundred and fifty three.”.
1874 c. 94	Conveyancing (Scotland) Act 1874	<p>Section 34.</p> <p>In section 10, from the words “, and may be in the form of schedule E” to the words “and also setting forth the petitioner’s own right to the said lands”.</p>
S.I.1971/1165	Act of Sederunt (Edictal Citations, Commissary Petitions and Petitions of Service) 1971	Paragraph 3.

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APPENDIX

Rule 2(2)

Rule 3(1)

FORM 1

Form of petition by eldest son for general service

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had at the time of his death his ordinary or principal domicile in the Sheriffdom of (*insert name of sheriffdom*).

[*Or* The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had his domicile furth of Scotland.]

[*Or where the domicile of the deceased is unknown:*– The late [CD] (*design*) died intestate at (*place*) on or about (*date*) but the petitioner is unable to prove at which place the deceased had his ordinary or principal domicile at the time of his death.]

2. The petitioner is the eldest son ever born to [CD] and is accordingly his nearest lawful heir in general.

MAY IT THEREFORE please your Lordship to serve the petitioner [AB] nearest lawful heir in general to [CD].

(*Signed*)

[AB] Petitioner

[*or* [XY] Agent for petitioner (*designation and business address*)]

Rule 3(1)

FORM 2

Form of petition by eldest son of eldest son for general service

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had at the time of his death his ordinary or principal domicile in the Sheriffdom of (*insert name of sheriffdom*).

[*Or* The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had his domicile furth of Scotland.]

[*Or where the domicile of the deceased is unknown:* – The late [CD] (*design*) died intestate at (*place*) on or about (*date*) but the petitioner is unable to prove at which place the deceased had his ordinary or principal domicile at the time of his death.]

2. The eldest son ever born to [CD] was [EF] (*design*), who predeceased [CD], having died intestate on or about (*date*) or who survived [CD] but died intestate on or about (*date*).

3. The petitioner is the eldest son ever born to the said [EF] and is accordingly nearest lawful heir in general to [CD].

MAY IT THEREFORE please your Lordship to serve the petitioner [AB] nearest lawful heir in general to [CD].

(*Signed*)

[AB] Petitioner
[or [XY] Agent for petitioner (*designation and business address*)]
Rule 3(1)

FORM 3

Form of petition by eldest surviving son for general service

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had at the time of his death his ordinary or principal domicile in the Sheriffdom of (*insert name of sheriffdom*).

[Or The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had his domicile furth of Scotland.]

[Or where the domicile of the deceased is unknown:– The late [CD] (*design*) died intestate at (*place*) on or about (*date*) but the petitioner is unable to prove at which place the deceased had his ordinary or principal domicile at the time of his death.]

2. The eldest son ever born to [CD] was [EF] (*design*), who predeceased [CD], having died intestate on or about (*date*) and without issue or pre-deceased by his issue.

3. The next eldest son ever born to [CD] is the petitioner who is accordingly nearest lawful heir in general to [CD].

MAY IT THEREFORE please your Lordship to serve the petitioner [AB] nearest lawful heir in general to [CD].

(Signed)

[AB] Petitioner

[or [XY] Agent for petitioner (*designation and business address*)]

Rule 3(1)

FORM 4

Form of petition by only child for general service

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had at the time of his death his ordinary or principal domicile in the Sheriffdom of (*insert name of sheriffdom*).

[Or The late [CD] (*design*) died intestate at (*place*) on or about (*date*) and had his domicile furth of Scotland.]

[Or where the domicile of the deceased is unknown:– The late [CD] (*design*) died intestate at (*place*) on or about (*date*) but the petitioner is unable to prove at which place the deceased had his ordinary or principal domicile at the time of his death.]

2. The petitioner is the only child ever born to [CD] and is accordingly nearest lawful heir in general to [CD].

MAY IT THEREFORE please your Lordship to serve the petitioner [AB] nearest lawful heir in general to [CD].

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(Signed)

[AB] Petitioner

[or [XY] Agent for petitioner (*designation and business address*)]

Rule 3(1)

FORM 5

Form of petition by trustees of an individual for general service

The Petition of [AB] (design) and [CD] (design)

1. The late [EF] (*design*) died at (*place*) on or about (*date*) and had at the time of his death his ordinary or principal domicile in the Sheriffdom of (*insert name of sheriffdom*).

2. [GH] (*design*), [JK] (*design*) and [EF] were the trustees of [LM] (*design*) and as such trustees together with the heir of the last surviving trustee they held the estate of the said [LM] in terms of (*describe deed of trust*). No other trustees were ever assumed (*or as the case may be*).

3. [GH] died on (*date*).

[JK] died on (*date*).

[EF] was the last surviving trustee of [LM].

4. The petitioners are the only son and daughter ever born to [EF] and the nearest lawful heirs of provision in general to [EF] in trust.

MAY IT THEREFORE please your Lordship in terms of the Titles to Land Consolidation (Scotland) Act 1868 as repealed by section 34(2) of and Schedule 3 to the Succession (Scotland) Act 1964 and revived by section 6 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 to serve the petitioners nearest lawful heirs of provision in general to the said [EF] in trust as aforesaid, under and by virtue of the said deed of trust.

(Signed)

[AB] and [CD] Petitioners

[or [XY] Agent for petitioners (*designation and business address*)]

Rule 3(1)

FORM 6

Form of petition by trustees of a firm for general service

The Petition of [AB] (design)

and [CD] (design)

1. The late [EF] (*design*) died at (*place*) on or about (*date*) and had at the time of his death his ordinary or principal domicile in the Sheriffdom of (*insert name of sheriffdom*).

2. [GH] (*design*), [JK] (*design*) and [EF] were partners of and trustees for the firm of (*insert name of firm*) and as such trustees together with the heir of the last surviving trustee they held the estate of (*describe estate*) in terms of Disposition by (*insert name of granter of disposition*) with consent in

their favour dated (*date*) and recorded in the Division of the General Register of Sasines applicable to the County of (*insert name of county*) on (*date*). No other trustees were ever assumed.

3. [GH] died on (*date*).

[JK] died on (*date*).

[EF] was the last surviving trustee of the said firm.

4. The petitioners are the only son and daughter ever born to [EF] and the nearest lawful heirs of provision in general to [EF] in trust.

MAY IT THEREFORE please your Lordship in terms of the Titles to Land Consolidation (Scotland) Act 1868 as repealed by section 34(2) of and Schedule 3 to the Succession (Scotland) Act 1964 and revived by section 6 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 to serve the petitioners nearest lawful heirs of provision in general to the said [EF] in trust as aforesaid, under and by virtue of the said Disposition.

(*Signed*)

[AB] and [CD] Petitioners

[or [XY] Agent for petitioners (*designation and business address*)]

Rule 3(1)

FORM 7

Form of petition by eldest son for special service

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) vest and seised in [*or in a share (eg one-half pro indiviso) of*] ALL AND WHOLE

the subjects forming (*insert short description sufficient to identify subjects for purposes of publication*) in the County of (*insert name of county*) [*or in the Burgh of (insert name of burgh) and County of (insert name of county)*], now in the Sheriffdom of (*insert name of sheriffdom*) described in the Disposition by [G] in favour of [H], dated (*date*) and recorded in the Division of the General Register of Sasines for the County of (*insert name of county*) on (*date*),

[*or if [CD's] infestment contained a particular description:– the subjects forming (describe as above) described in the Disposition in favour of the said [CD] after mentioned,*]

[*or describe the subjects particularly,*]

conform to Disposition by [S] in favour of the said [CD], dated (*date*) and, along with warrant of registration thereon on behalf of the said [CD], recorded in the said Division of the General Register of Sasines [*or in the Division of the General Register of Sasines for the County of (insert name of county)*] on (*date*) [*or otherwise specify [CD's] infestment*]; but always with and under the burdens and others in (*specify burdens writs*).

2. The petitioner is the eldest son ever born to [CD] and is accordingly nearest lawful heir in special to [CD] in the subjects specified above.

MAY IT THEREFORE please your Lordship to serve the petitioner special to [CD] in the subjects specified above.

(*Signed*)

[AB] Petitioner

[or [XY] Agent for petitioner (*designation and business address*)]

Rule 3(1)

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FORM 8

Form of petition by eldest surviving son for special service

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) vest and seised in [*or in a share (eg one-half pro indiviso) of*] ALL AND WHOLE

the subjects forming (*insert short description sufficient to identify subjects for purposes of publication*) in the County of (*insert name of county*) [*or in the Burgh of (insert name of burgh) and County of (insert name of county)*], now in the Sheriffdom of (*insert name of sheriffdom*) described in the Disposition by [G] in favour of [H], dated (*date*) and recorded in the Division of the General Register of Sasines for the County of (*insert name of county*) on (*date*),

[*or if [CD's] infeftment contained a particular description:– the subjects forming (describe as above) described in the Disposition in favour of the said [CD] after mentioned,*

[*or describe the subjects particularly,*

conform to Disposition by [S] in favour of the said [CD], dated (*date*) and, along with warrant of registration thereon on behalf of the said [CD], recorded in the said Division of the General Register of Sasines [*or in the Division of the General Register of Sasines for the County of (insert name of county)*] on (*date*) [*or otherwise specify [CD's] infeftment*]; but always with and under the burdens and others in (*specify burdens writs*).

2. The eldest son ever born to [CD] was [EF] (*design*), who predeceased [CD] having died on or about (*date*) without issue or pre-deceased by his issue.

3. The petitioner is the next eldest son ever born to the said [CD] and is accordingly nearest lawful heir in special to [CD] in the subjects specified above.

MAY IT THEREFORE please your Lordship to serve the petitioner special to [CD] in the subjects specified above.

(*Signed*)

[AB] Petitioner

[*or [XY] Agent for petitioner (designation and business address)*]

Rule 3(1)

FORM 9

Form of petition by daughters as heirs portioners for special service

The Petition of [AB] and [CD] (design)

1. The late [EF] (*design*) died intestate at (*place*) on or about (*date*) vest and seised in [*or in a share (eg one-half pro indiviso) of*] ALL AND WHOLE

the subjects forming (*insert short description sufficient to identify subjects for purposes of publication*) in the County of (*insert name of county*) [*or in the Burgh of (insert name of burgh) and County of (insert name of county)*], now in the Sheriffdom of (*insert name of sheriffdom*) described in the Disposition by [G] in favour of [H], dated (*date*) and recorded in the Division of the General Register of Sasines for the County of (*insert name of county*) on (*date*),

[*or if [EF's] infeftment contained a particular description:– the subjects forming (describe as above) described in the Disposition in favour of the said [EF] after mentioned,*

[or describe the subjects particularly,]

conform to Disposition by [S] in favour of the said [EF], dated (*date*) and, along with warrant of registration thereon on behalf of the said [EF], recorded in the said Division of the General Register of Sasines [or in the Division of the General Register of Sasines for the County of (*insert name of county*)] on (*date*) [or otherwise specify [EF's] *infefment*]; but always with and under the burdens and others in (*specify burdens writs*).

2. [EF] never had a son.

3. The petitioners are the only daughters ever born to [EF] and are accordingly nearest lawful heirs portioners in special to [EF] in the subjects specified above.

MAY IT THEREFORE please your Lordship to serve the petitioners nearest lawful heirs portioners in special to [EF] in the subjects specified above.

(Signed)

[AB] and [CD] Petitioners

[or [XY] Agent for petitioners (*designation and business address*)]

Rule 3(1)

FORM 10

Form of petition by heir of an heir for completion of title under section 10 of the Conveyancing (Scotland) Act 1874

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) vest and seised in [or in a share (eg one-half *pro indiviso*) of] ALL AND WHOLE

the subjects forming (*insert short description sufficient to identify subjects for purposes of publication*) in the County of (*insert name of county*) [or in the Burgh of (*insert name of burgh*) and County of (*insert name of county*)], now in the Sheriffdom of (*insert name of sheriffdom*) described in the Disposition by [G] in favour of [H], dated (*date*) and recorded in the Division of the General Register of Sasines for the County of (*insert name of county*) on (*date*),

[or if [CD's] *infefment* contained a particular description:– the subjects forming (*describe as above*) described in the Disposition in favour of the said [CD] after mentioned,]

[or describe the subjects particularly,]

conform to Disposition by [S] in favour of the said [CD], dated (*date*) and, along with warrant of registration thereon on behalf of the said [CD], recorded in the said Division of the General Register of Sasines [or in the Division of the General Register of Sasines for the County of (*insert name of county*)] on (*date*) [or otherwise specify [CD's] *infefment*]; but always with and under the burdens and others in (*specify burdens writs*).

2. On [CD's] death he was succeeded by [EF] (*design*), the eldest son ever born to [CD] as his heir in the subjects specified above.

(NOTE: *if relatives nearer in the line of succession have predeceased [CD], dispose of them and their issue thus:–* On [CD's] death he was succeeded by [EF] (*design*), the second eldest son ever born to [CD] as his heir in the subjects, [X] the eldest son ever born to [CD] having predeceased [CD] without issue).

3. [EF] died on or about (*date*) unserved and uninfefed and having only a personal right to the subjects [or to a share (eg one-half *pro indiviso*) of the subjects] and was succeeded by the petitioner,

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the eldest son ever born to [EF] [*or otherwise as above*], as his nearest lawful heir in the subjects specified above.

MAY IT THEREFORE please your Lordship to find the facts above set forth proved, and that the petitioner is entitled in terms of section 10 of the Conveyancing (Scotland) Act 1874, to procure himself infeft in the subjects specified above.

(Signed)

[AB] Petitioner

[*or* [XY] Agent for petitioner (*designation and business address*)]

Rule 3(1)

FORM 11

Form of petition by the executor of an heir for completion of title under section 10 of the Conveyancing (Scotland) Act 1874

The Petition of [AB] (design) as executor of [EF]

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) vest and seised in [*or* in a share (eg one-half *pro indiviso*) of] ALL AND WHOLE

the subjects forming (*insert short description sufficient to identify subjects for purposes of publication*) in the County of (*insert name of county*) [*or* in the Burgh of (*insert name of burgh*) and County of (*insert name of county*)], now in the Sheriffdom of (*insert name of sheriffdom*) described in the Disposition by [G] in favour of [H], dated (*date*) and recorded in the Division of the General Register of Sasines for the County of (*insert name of county*) on (*date*),

[*or if [CD's] infeftment contained a particular description:— the subjects forming (describe as above) described in the Disposition in favour of the said [CD] after mentioned,*

[*or describe the subjects particularly,*

conform to Disposition by [S] in favour of the said [CD], dated (*date*) and, along with warrant of registration thereon on behalf of the said [CD], recorded in the said Division of the General Register of Sasines [*or* in the Division of the General Register of Sasines for the County of (*insert name of county*)] on (*date*) [*or otherwise specify [CD's] infeftment*]; but always with and under the burdens and others in (*specify burdens writs*).

2. On [CD's] death he was succeeded by [EF] (*design*), the eldest son ever born to [CD] as his heir in the subjects specified above.

(NOTE: *if relatives nearer in the line of succession have predeceased [CD], dispose of them and their issue thus:— On [CD's] death he was succeeded by [EF] (design), the second eldest son ever born to [CD] as his heir in the subjects, [X] the eldest son ever born to [CD] having predeceased [CD] without issue.*)

3. [EF] died intestate [*or* testate] on or about (*date*) unserved and uninfeft having only a personal right to the subjects. The petitioner was appointed executor dative *qua* (*specify in which capacity [AB] was appointed*) of [EF] conform to decree of the Sheriff of (*insert name of sheriffdom*) dated (*date*) [*or as the case may be*]. An inventory of the estate of [EF] was given up and recorded in the Court Books of the Commissariat of (*specify*) and confirmation thereof was expedite on (*date*) in favour of the petitioner as executor foresaid. In terms of paragraph 2 of Schedule 2 to the Succession (Scotland) Act 1964 the petitioner as executor foresaid is the heir of [EF] for the purposes of section 10 of the Conveyancing (Scotland) Act 1874.

MAY IT THEREFORE please your Lordship to find the facts above set forth proved, and that the petitioner as executor foresaid is, for the purposes of Part III of the Succession (Scotland) Act 1964, entitled, in terms of section 10 of the Conveyancing (Scotland) Act 1874, to procure himself infeft in the subjects specified above.

(Signed)

[AB] Petitioner

[or [XY] Agent for petitioner (*designation and business address*)]

Rule 3(1)

FORM 12

Form of petition for special service combined with petition for completion of title under section 10 of the Conveyancing (Scotland) Act 1874

The Petition of [AB] (design)

1. The late [CD] (*design*) died intestate at (*place*) on or about (*date*) vest and seised in [*or in a share (eg one-half pro indiviso) of*] ALL AND WHOLE

the subjects forming (*insert short description sufficient to identify subjects for purposes of publication*) in the County of (*insert name of county*) [*or in the Burgh of (insert name of burgh) and County of (insert name of county)*], now in the Sheriffdom of (*insert name of sheriffdom*) described in the Disposition by [G] in favour of [H], dated (*date*) and recorded in the Division of the General Register of Sasines for the County of (*insert name of county*) on (*date*),

[*or if [CD's] infeftment contained a particular description:– the subjects forming (describe as above) described in the Disposition in favour of the said [CD] after mentioned,*

[*or describe the subjects particularly,*

conform to Disposition by [S] in favour of the said [CD], dated (*date*) and, along with warrant of registration thereon on behalf of the said [CD], recorded in the said Division of the General Register of Sasines [*or in the Division of the General Register of Sasines for the County of (insert name of county)*] on (*date*) [*or otherwise specify [CD's] infeftment*]; but always with and under the burdens and others in (*specify burdens writs*).

2. [CD] never had a son.

3. [EF] (*design*) and [GH] (*design*) were the only daughters ever born to [CD].

4. [EF] predeceased [CD], having died on or about (*date*).

5. The petitioner is the eldest son ever born to [EF], and is accordingly one of the two nearest lawful heirs portioners to [CD], and as such heir in special to [CD] in one-half *pro indiviso* share of the subjects.

6. On [CD's] death he was succeeded by [GH] as his other heir portioner and therefore as such heir in the other half *pro indiviso* share of the subjects.

7. [GH] died on or about (*date*) unserved and uninfest and having only a personal right to the half *pro indiviso* share of the subjects to which she was heir.

8. [GH] conveyed her whole estate heritable and moveable to her husband [JK] (*design*), by her will dated (*date*) and registered (*specify place and date of registration*). An extract is produced herewith.

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9. [JK] survived [GH] but died on or about (*date*) never having been infeft in the half *pro indiviso* share of the said subjects of which [GH] was heir.

10. [JK] conveyed his whole estate heritable and moveable to the petitioner by his will dated (*date*) and registered (*specify place and date of registration*). An extract is produced herewith.

MAY IT THEREFORE please your Lordship (1) to serve the petitioner nearest lawful heir portioner to [CD] and as such heir in special to [CD] in one-half *pro indiviso* share of the subjects specified above; and (2) to find the facts above set forth proved, and that the petitioner is entitled in terms of section 10 of the Conveyancing (Scotland) Act 1874, to procure himself infeft in the other one-half *pro indiviso* share of the subjects.

(*Signed*)

[AB] Petitioner

[or [XY] Agent for petitioner (*designation and business address*)]

Rule 4(4)

FORM 13

Form of certificate

At (*place*) on (*date*)

I hereby certify that the petition to the Sheriff of Chancery by the undernoted petitioner has this day been displayed in the Sheriff Court District of (*specify*) in the Sheriffdom of (*insert name of sheriffdom*).

Sheriff Clerk Depute

Note:–

Petitioner (*design*)

Petition for *General Service

*Special Service

*Completion of Title

*Delete where not applicable.