



# Succession (Scotland) Act 2016

## 2016 asp 7

### *Forfeiture*

#### **14 Power of sheriff to order sheriff clerk to execute document**

- (1) This section applies where a relevant sheriff is satisfied, on an application, that—
  - (a) execution by a person of a particular document is reasonably necessary to give effect to a forfeiture under the forfeiture rule, and
  - (b) the person—
    - (i) is refusing to execute the document, or
    - (ii) is unable, or otherwise failing, to execute the document.
- (2) The sheriff may make an order—
  - (a) dispensing with the execution of the document by the person, and
  - (b) directing the sheriff clerk to execute the document.
- (3) A document executed by the sheriff clerk in accordance with an order under subsection (2) has the same force and effect as if it had been executed by the person.
- (4) In subsection (1), “a relevant sheriff” means—
  - (a) if the deceased died domiciled in Scotland, a sheriff—
    - (i) of the sheriffdom in which the deceased was habitually resident at the date of death, or
    - (ii) if subsection (5) applies, of the sheriffdom of Lothian and Borders sitting at Edinburgh,
  - (b) if the deceased died domiciled other than in Scotland but at the date of death owned immovable property situated in Scotland, a sheriff of the sheriffdom in which the immovable property is situated,
  - (c) in any case, a sheriff of the sheriffdom in which the deceased’s executor obtains confirmation.
- (5) This subsection applies if at the date of death—
  - (a) the deceased was not habitually resident in a particular part of Scotland, or
  - (b) the particular part of Scotland in which the deceased was habitually resident is not known or is uncertain.

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*Status: This is the original version (as it was originally enacted).*

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- (6) In this section, “the deceased” means the person as a result of whose death the forfeiture arose.