



Confirmation of Executors (Scotland) Act 1823

1823 CHAPTER 98

An Act for the better granting of Confirmations in *Scotland*. [19th July 1823]

WHEREAS it is expedient that Provision should be made for the better granting of Confirmations, in certain Cases, in *Scotland*;

be it therefore enacted by the King'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,

Right to Confirmation to transmit to Representatives.

That from and after the passing of this Act, 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 expedie, 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.

II Court to regulate Caution to be found.

And be it further enacted, That from and after the First Day of *January* One thousand eight hundred and twenty-four, Caution shall not be required to be found by Executors Nominate ; and in all other Cases 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.

III Partial Confirmations to cease.

And be it further enacted, That from and after the First; Day of *January* One thousand eight hundred and twenty-four, every Person requiring Confirmation shall confirm

the whole moveable Estate of a deceased Person known at the Time, to which such Person shall make Oath: 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 Oath as aforesaid: Provided nevertheless, that nothing herein contained shall affect or alter the Provision made with respect to special Assignations by an Act of the *Scottish* Parliament, made in the Year One thousand six hundred and ninety, intituled *Act anent the Confirmation of Testaments*.

IV In cases of Executor's Creditor, Confirmation to be granted.

Provided further, and be it enacted, 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 Oath: 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.