

Status: Point in time view as at 01/02/1991.

Changes to legislation: Confirmation of Executors (Scotland) Act 1858 is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES TO WHICH THE FOREGOING ACT REFERS

^{F1}SCHEDULE (A.)

Textual Amendments

F1 Sch. (A.) repealed by [S.I. 1964/1163](#)

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SCHEDULE (B.)

Roll of Petitions for the Appointment of Executors in Commissary Courts in Scotland

County.	Name and designation of petitioner.	Title of petitioner.	Name and designation of defunct.	Place and date of death.
Edinburgh.	A.B., writer in Edinburgh.	Next of kin.	C.D., merchant in Edinburgh.	No. George St., Edinburgh, 1st January 1857.

^{F2}SCHEDULE (C.)

Textual Amendments

F2 Sch. (C.) repealed by [Sheriff Courts \(Scotland\) Act 1876 \(c. 70\), s. 44](#)

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F2

SCHEDULE (D.)

Modifications etc. (not altering text)

C1 Sch. (D.) amended by [Executors \(Scotland\) Act 1900 \(c. 55\), s. 5](#)

C2 Forms prescribed by [S.I. 1967/789](#) are to be used by Sheriff Clerks and may be used with modifications by Commissary Clerk of Edinburgh in lieu of form prescribed by Sch. (D.)

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*Form of a Testament Dative or Confirmation of the
Executor of a Person who has died without naming one.*

I, *A.B.*, commissary of the county of [*specify county*], considering that by my decree, dated [*specify date*], I decerned *C.D.* executor dative qua next of kin [*or other character, as the case may be,*] of the late *E.F.*, who died at [*specify place*], on [*specify date*], and seeing that the said *C.D.* has since given up on [^{F3}oath][^{F3}declaration] an inventory of the personal estate and effects of the said *E.F.* at the time of his death situated in Scotland, [*orsituated in Scotland and England, or in Scotland and Ireland, or in Scotland, England, and Ireland, as the case may be,*] amounting in value to pounds, which inventory has been recorded in my court books, of date [*specify date*], and that he has likewise found caution for his acts and intromissions as executor: Therefore I, in Her Majesty's name and authority, make, constitute, ordain, and confirm the said *C.D.* executor dative qua [*specify character*] to the defunct, with full power to him to uplift, receive, administer, and dispose of the said personal estate and effects, and grant discharges thereof, if needful to pursue therefor, and generally every other thing concerning the same to do that to the office of executor dative qua [*specify character*] is known to belong; providing always, that he shall render just count and reckoning for his intromissions therewith when and where the same shall be legally required.

Textual Amendments

- F3** Word "declaration" substituted (*prosp.*) for word "oath" by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), ss. 74(1), 75(2), Sch. 8 para. 22(2)

Given under the seal of office of the commissariot [*specify county*],
and signed by the clerk of court at [*specify place*], the [*specify date*].

*To be signed by the commissary clerk or his depute, and sealed with the
seal of office.*

SCHEDULE (E.)

Modifications etc. (not altering text)

- C3** Sch. (E.) amended by [Executors \(Scotland\) Act 1900 \(c. 55\), s. 5](#)
C4 Forms prescribed by [S.I. 1967/789](#) are to be used by Sheriff Clerks and may be used with modifications by Commissary Clerk of Edinburgh in lieu of form prescribed by Sch. (E.)

Form of a Testament Testamentar or Confirmation of an Executor Nominat.

I, *A.B.*, commissary of the county of [*specify county*], considering that the late *C.D.* died at [*specify place*], upon [*specify date*], and that by his last will [*or other writing containing the nomination of executor*], dated [*specify date*], and recorded in my court books upon [*specify date*], the said *C.D.* nominated and appointed *E.F.* to be his executor, and that the said *E.F.*, has given up on [^{F4}oath][^{F4}declaration] an inventory of the personal estate and effects of the said *C.D.* at the time of his death situated in Scotland, [*orsituated in Scotland and England, or situated in Scotland and Ireland, or situated in Scotland, England and Ireland, as the case may be,*] amounting in value to pounds, which inventory has likewise been recorded in my court books of date

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[*specify date*]: Therefore I, in Her Majesty's name and authority, ratify, approve, and confirm the nomination of executor contained in the foresaid last will [*or other writing containing the nomination of executor*]; and I give and commit to the said *E.F.* full power to uplift, receive, administer, and dispose of the said personal estate and effects, grant discharges thereof, if needful to pursue therefor, and generally every other thing concerning the same to do that to the office of an executor nominate is known to belong; providing always, that he shall render just count and reckoning for his intromissions therewith when and where the same shall be legally required.

Textual Amendments

- F4** Word "declaration" substituted (*prosp.*) for word "oath" by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), ss. 74(1), 75(2), Sch. 8 para. 22(2)

Given under the seal of office of the commissariat of [*specify county*],

and signed by the clerk of court at [*specify place*], the [*specify date*].

To be signed by the commissary clerk or his depute, and sealed with the seal of office.

^{F5F5}SCHEDULE (F.)

Textual Amendments

- F5** Sch. (F.) repealed by Administration of Estates Act 1971 (c. 25), Sch. 2 Pt. I

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F5

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