
 STATUTORY INSTRUMENTS

1967 No. 789 (S. 58)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Confirmation of Executors) 1967

Made - - - 19th May 1967
 Coming into Operation 1st August 1967

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 18 of the Confirmation of Executors (Scotland) Act 1858(a), section 16 of the Sheriff Courts and Legal Officers (Scotland) Act 1927(b), section 34 of the Administration of Justice (Scotland) Act 1933(c), and of all other powers competent to them in that behalf, do hereby enact and declare as follows:—

1. (a) Subject to the provisions of Article (b) hereof the forms contained in the Schedule annexed hereto shall be used by Sheriff Clerks and, subject to the modifications specified in the Note to the said Schedule, shall be used by the Commissary Clerk, Edinburgh in lieu of the forms of Confirmation and Eik to Confirmation prescribed by Schedules B and C annexed to the Act of Sederunt of 3rd February 1933(d) as amended by the Act of Sederunt (Forms of Confirmation to Small Estates) 1961(e) and the Act of Sederunt (Confirmation of Executors) 1964(f).

(b) The forms hereby prescribed may be varied or adapted as the circumstances of a particular case may require.

2. This Act of Sederunt may be cited as the Act of Sederunt (Confirmation of Executors) 1967 and shall come into operation on 1st August 1967.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

J. L. Clyde,
 I.P.D.

Edinburgh.
 19th May 1967.

SCHEDULE

Forms of Confirmation or Eik to Confirmation

(EIK TO)*

CONFIRMATION

(AD NON EXECUTA ET AD OMISSA)*

in favour of the Executor(s) of the deceased hereafter named and designed. (*Here reproduce in full (a) the name(s), address(es), date of death, and occupation or designation of the deceased, and (b) the Oath and annexed inventory (or additional or corrective inventory) of the estate and effects (ad non executata et ad omissa) of the said deceased exhibited for recording according to present law and practice. Then add:—*)

Nominate cases—

THE SHERIFF OF _____, considering that there has been given up on Oath a(n) (*corrective or additional*)* inventory of the estate and effects (*ad non executata et ad omissa*)* of the said deceased, (*insert here note of any trust property etc.*)*

which Oath and inventory (all as hereinbefore copied) and the Deed(s) referred to in the Oath, have been recorded in the Court Books of this Commissariat on

(a) 1858 c. 56. (b) 1927 c. 35. (c) 1933 c. 41.

(d) S.R. & O. 1933/48 (Rev. XX, p. 829; 1933, p. 1784).

(e) S.I. 1961/2292 (1961 III, p. 4051). (f) S.I. 1964/1143 (1964 II, p. 2563).

19 , in HER MAJESTY'S NAME and AUTHORITY, (*of new*)* APPROVES OF AND CONFIRMS as (*joint*)* Executor(s) nominate of the said deceased, who died domiciled in Scotland, the said *C. D. and E. F., (names only)* (*insert here note of any restriction or condition etc. governing the appointment or "in whose favour the said Sheriff granted "warrant to issue this confirmation on* 19))* and GIVES AND COMMITS to the said (*joint*)* Executor(s) full power as appropriate to take possession of, make up title to, uplift or receive the said estate and effects, situated in Scotland, (*and England*)* administer and dispose of the same, grant discharges thereof, if needful to pursue therefor, and generally every other thing concerning the same to do that to the office of a(n) (*joint*)* Executor-nominate is known to belong: Providing always that the said Executor(s) shall render just count and reckoning for Intermissions therewith when and where the same shall be legally required.

GIVEN under the SEAL OF OFFICE OF THE COMMISSARIOT OF , and signed by the CLERK OF COURT AT the day of NINETEEN HUNDRED AND SIXTY Sheriff Clerk of

Dative cases—

THE SHERIFF OF , considering that there has been given up an Oath a(n) (*corrective or additional*)* inventory of the estate and effects (*ad non executata et ad omitta*)* of the said deceased, (*insert here note of any trust property, etc.*)* which Oath and inventory (all as hereinbefore copied) (*and the Deed(s) referred to in the Oath*)* , have been recorded in the Court Books of this Commissariat on 19 , and Caution having been found, in HER MAJESTY'S NAME AND AUTHORITY, (*of new*)* (*DECERNS*)† MAKES, CONSTITUTES, ORDAINS and CONFIRMS the said *C. D. and E. F. (names only)* as the Executor(s)—*Dative qua sons (or other character as the case may be)** of the said deceased, who died domiciled in Scotland and GIVES AND COMMITS to the said Executor(s) full power as appropriate to take possession of, make up title to, uplift or receive the said estate and effects, situated in Scotland, (*and England*,)* administer and dispose of the same, 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-Dative in the foresaid character is known to belong: Providing always that the said Executor(s) shall render just count and reckoning for Intrmissions therewith, when and where the same shall be legally required.

GIVEN under the SEAL OF OFFICE OF THE COMMISSARIOT OF , and signed by the CLERK OF COURT AT the day of NINETEEN HUNDRED AND SIXTY Sheriff Clerk of

*Insert as necessary.

†In Small Estates insert "DECERNS".

Note: The above forms shall also be used by the Commissary Clerk, Edinburgh, subject to amendment by the substitution of "Commissary" "Clerk" for "Sheriff Clerk of" and by the appropriate substitution of the deceased's domicile where it is furth of Scotland.

EXPLANATORY NOTE

(*This Note is not part of the Act of Sederunt.*)

This Act of Sederunt prescribes new forms of Confirmation and Eik to Confirmation to be used by Sheriff Clerks and by the Commissary Clerk.