

1971 No. 1655 (S.182)

SHERIFF COURT, SCOTLAND

**Act of Sederunt (Confirmation of Executors Amendment No. 2)
1971**

Made - - - - - 8th October 1971
Coming into Operation 8th November 1971

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), section 22 of the Succession (Scotland) Act 1964(d), and of all other powers competent to them in that behalf, do hereby enact and declare as follows:

1. The Act of Sederunt (Confirmation of Executors Amendment) 1971(e) is hereby amended by, and shall come into operation on 1st January 1972 with,—

- (a) the addition of the figure "1." immediately before the words "The Act of Sederunt anent certain Forms of Procedure";
- (b) the substitution of the figure "1s", for the word "is" in sub-paragraph (1); and
- (c) the substitution of the figure "2." for the figure "(3)" where it follows sub-paragraph (2).

2. Section 44 of the Sheriff Courts (Scotland) Act 1876(f) is hereby modified and amended by the substitution of the following in place of the said section 44 as enacted:

"44. The sheriff clerk shall, after a petition for the appointment of an executor has been intimated by him by affixing a full copy of the petition on the door of the Sheriff Court house or in some conspicuous place of the Court or of the office of the Sheriff clerk or in such other manner as may be prescribed in place thereof by Act of Sederunt, forthwith certify this fact on the petition in the following terms:

'Intimated in terms of the statute', which certificate shall be dated and signed by him and shall be sufficient evidence of such intimation: Provided always that special intimation shall be made to all executors already discerned or confirmed to a deceased person, of any subsequent petition for the appointment of an executor which may be presented with reference to the estate of the same deceased person.'

3. Paragraphs 1 to 6 inclusive and paragraphs 9 to 11 inclusive of the Act of Sederunt entitled "an Act to Regulate Proceedings before Commissaries, and the Fees of Clerk of Commissary Courts, under the Act of Parliament, 21 & 22 Vict. "c.56", dated said Act of Sederunt 19th March 1859, are hereby repealed.

(a) 1858 c.56. (b) 1927 c.35.
(c) 1933 c.41. (d) 1964 c.41.
(e) S.I. 1971/1164 (1971 II, p. 3423). (f) 1876 c.70.

4. This Act of Sederunt may be cited as the Act of Sederunt (Confirmation of Executors Amendment No. 2) 1971, and shall come into operation on 8th November 1971.

Edinburgh,
8th October 1971

J. L. CLYDE
I.P.D.

EXPLANATORY NOTE

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

This Act of Sederunt makes certain formal amendments to the Act of Sederunt (Confirmation of Executors Amendment) 1971; makes amendments (consequent upon the Act of Sederunt (Edictal Citations, Commissary Petitions and Petitions of Service) 1971 (S.I. 1971/1165)) to section 44 of the Sheriff Courts (Scotland) Act 1876, to the effect that a certificate of intimation, in place of a certificate of intimation and publication, is to be given by the sheriff clerk; and repeals certain provisions of the Act of Sederunt dated 19th March 1859 anent Commissary Proceedings which are now inapplicable or have been superseded.