

*Status: Point in time view as at 16/12/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Presumption of Death (Scotland) Act 1977. (See end of Document for details)*

## SCHEDULE 1

Section 18.

### AMENDMENT OF OTHER ENACTMENTS.

#### Modifications etc. (not altering text)

- C1** The text of ss. 18,19 and Schs. 1,2 is in the form in which it was originally enacted : it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *The Entail (Scotland) Act 1882 (c. 53)*

In section 14 (procedure where heir in possession has disappeared), after the words “possession, and may” there shall be inserted the words “if it thinks fit”.

For section 16 there shall be substituted the following section:—

#### “16 Provision for disposal of fund deposited or invested.

Where an heir whose consent to an application for disentail has been dispensed with under section 15 of this Act is by virtue of a decree under section 2 of the Presumption of Death (Scotland) Act 1977 declared to have died, then, if the date of death is declared to have been—

- (a) prior to the date of disentail, the sum deposited or invested under the said section 15 together with accrued interest shall be paid to the heir or to the heirs according to their respective interests (or to his or their representatives) whose consent to the application for disentail would have been required if that application had been made at date of disentail and if at that date the death of the heir whose consent has been dispensed with as aforesaid had been legally established ;
- (b) on or after the date of disentail, the said sum and interest shall form part of his estate.”

#### *The Sheriff Courts (Scotland) Act 1907 (c. 51)*

In section 5 (extension of sheriff’s jurisdiction), after subsection (1) there shall be inserted the following subsection—

“(1A) Actions of declarator under section 1 of the Presumption of death (Scotland) Act 1977.”

## SCHEDULE 2

Section 19.

### ENACTMENTS REPEALED.

#### Modifications etc. (not altering text)

- C2** The text of ss. 18,19 and Schs. 1,2 is in the form in which it was originally enacted : it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Chapter	Short Title	Extent of Repeal
45 & 46 Vict. c. 53.	The Entail (Scotland) Act 1882.	In section 14, the words " for a period of seven years ", " and that there is no evidence that such heir in possession has been in life during the preceding seven years ", " subject to the provisions of the Presumption of Life Limitation (Scotland) Act 1891 ", " for any shorter period than seven years " and " under the provisions of the Presumption of Life Limitation (Scotland) Act 1891, or otherwise ". The whole Act.
54 & 55 Vict. c. 29.	The Presumption of Life Limitation (Scotland) Act 1891.	The whole Act.
1 & 2 Geo. 6, c. 50. 1973 c. 45.	The Divorce (Scotland) Act 1938. The Domicile and Matrimonial Proceedings Act 1973.	Section 5. Section 7(1)(b) and (4). In Schedule 4, paragraph 2.

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