



Presumption of Death (Scotland) Act 1977

1977 CHAPTER 27

4 Recall or variation of decree.

- (1) Decree in an action of declarator may, on application made at any time by any person having an interest, be varied or recalled by an order of the court which granted the decree or, in a case to which subsection (4) below applies, by an order of the Court of Session.

An order of the court pronounced under this subsection is hereafter in this Act referred to as a "variation order".

- (2) By a variation order the court may make any determination or appointment referred to in section 2 of this Act.
- (3) Any person having an interest may, in an application for a variation order, [^{F1}make an application to the court] seeking the making by the court of any determination or appointment referred to in section 2 of this Act, which has not been sought by the person making the application for the variation order.
- (4) At any stage of the proceedings the sheriff may, of his own accord or on the application of any party to the proceedings, and shall, if so directed by the Court of Session (which direction may be given on the application of any party to the proceedings), remit to the Court of Session an application made in the sheriff court for a variation order where he or, as the case may be, the Court of Session considers such remit desirable because of the importance or complexity of the matters at issue.
- (5) Nothing in this section shall operate so as to revive a marriage of the missing person dissolved by virtue of decree in an action of declarator.

Textual Amendments

- F1** Words in s. 4(3) substituted (5.9.1994) by S.I. 1994/1443, para. 3(1), Sch. 3

Changes to legislation:

There are currently no known outstanding effects for the Presumption of Death (Scotland) Act 1977, Section 4.