



# Small Testate Estates (Scotland) 1876

1876 CHAPTER 24 39 and 40 Vict

**1 Short title.**

This Act may be cited for all purposes as The Small Testate Estates (Scotland) Act, 1876.

**2 Extent of Act.**

This Act shall extend to Scotland only.

**3 Where estate does not exceed [<sup>F1</sup>£36,000] executor may apply to the commissary clerk to fill up inventory and expedite confirmation.**

Where [<sup>F2</sup>the whole estate of a testate is of a value not exceeding [<sup>F1</sup>£36,000] an applicant for confirmation thereto] may apply to the commissary clerk of the county within which such testate was domiciled at the time of death; and the said commissary clerk, on production of the will or other writing of the testate containing the nomination of an executor, shall prepare and fill up an inventory and relative [<sup>F3</sup>declaration] , as nearly as may be in the form of Schedule A. appended to this Act, and, upon such an inventory [<sup>F4</sup>and declaration being duly signed] by the executor, shall proceed to record said will or other writing and inventory and expedite confirmation in the form as nearly as may be of Schedule B. annexed to this Act, and shall deliver the same to the executor [<sup>F2</sup>on payment of the requisite fee] ; and such confirmation shall have the same force and effect as that prescribed in Schedule E. annexed to the <sup>M1</sup>Confirmation of Executors (Scotland) Act 1858; . . . <sup>F5</sup>

#### Textual Amendments

- F1** Word in s. 3 substituted (1.2.2012) by [The Confirmation to Small Estates \(Scotland\) Order 2011 \(S.S.I. 2011/435\)](#), arts. 1, **3(a)**
- F2** Words in s. 3 substituted by [Confirmation to Small Estates \(Scotland\) Act 1979 \(c. 22, SIF 116:2\)](#), s. **1(1)(a)**

*Changes to legislation: There are currently no known outstanding effects for the Small Testate Estates (Scotland) 1876. (See end of Document for details)*

- F3** Word in s. 3 substituted (1.3.1997) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74(1), **Sch. 8 para. 25(1)(a)**; S.I. 1996/2894, art. 3, **Sch.** (as amended by S.I. 1996/2966, **art. 2**)
- F4** Words in s. 3 substituted (1.3.1997) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74(1), **Sch. 8 para. 25(1)(b)**; S.I. 1996/2894, art. 3, **Sch.** (as amended by S.I. 1996/2966, **art. 2**)
- F5** Words in s. 3 repealed by Administration of Estates Act 1971 (c. 25, SIF 116:1, 2), s. 12, **Sch. 2 Pt. I**

**Marginal Citations**

- M1** 1858 c.56 (116:2).

**4 Proof of identity.**

The commissary clerk of the county may require such proof as he may think sufficient to establish the identify of the executor.

**5 Commissary clerk must be satisfied that whole estate is under 150l.**

If the commissary clerk of the county has reason to believe that [<sup>F6</sup>the estate and effects of which the testate died possessed exceed [<sup>F7</sup>the value] specified in section three of this Act] , he shall refuse to proceed with the application until he is satisfied as to the true value thereof.

**Textual Amendments**

- F6** Words substituted by Small Estates (Representation) Act 1961 (c. 37), s. 1(1), **Sch. 1 para. 2(2)**
- F7** Words substituted by Confirmation to Small Estates (Scotland) Act 1979 (c. 22, SIF 116:2), **s. 1(2)(b)**

<sup>F8</sup>6 .....

**Textual Amendments**

- F8** S. 6 repealed (1.3.1997) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74(2), **Sch. 9**; S.I. 1996/2894, art. 3, **Sch.** (as amended by S.I. 1996/2966, **art. 2**)

**7 Procedure and fees.**

Any rules and orders and tables of fees requisite for carrying this Act into operation shall be framed and may from time to time be altered by the Court of Session by Act of Sederunt . . . <sup>F9</sup>.

**Textual Amendments**

- F9** Words repealed by Confirmation to Small Estates (Scotland) Act 1979 (c. 22, SIF 116:2), **s. 1(2)(c)**, **Sch.**

**8** ..... <sup>F10</sup>

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**Changes to legislation:** *There are currently no known outstanding effects for the Small Testate Estates (Scotland) 1876. (See end of Document for details)*

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**Textual Amendments**

**F10** S. 8 repealed by [Finance Act 1975 \(c. 7, SIF 99:3\)](#), ss. 50, 52(2)(3), 59, [Sch. 13 Pt. I](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Small Testate Estates (Scotland) 1876.