



# Small Testate Estates (Scotland) Act 1876

## 1876 CHAPTER 24

### 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 one hundred and fifty pounds, executor may apply to commissary clerk to fill up inventory and expedite confirmation**

Where the whole real and personal estate and effects of a testate dying domiciled in Scotland shall not exceed in value the sum of one hundred and fifty pounds, the executor of such testate 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 oath, as nearly as may be in the form of Schedule A. appended to this Act, and, upon such inventory being duly sworn to 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 without the payment of any fee therefor save as is provided in Schedule C. annexed to this Act; and such confirmation shall have the same force and effect as that prescribed in Schedule E. annexed to the Act of the twenty-first and twenty-second Victoria, chapter fifty-six; and where such confirmation shall contain English or Irish estate the registrar of any probate court in England or Ireland shall affix the seal of the said court thereto on the confirmation being sent to him by the commissary clerk for that purpose, enclosing a fee of two shillings and sixpence.

### 4 **Proof of identity**

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

**5 Commissary clerk must be satisfied that whole estate is under one hundred and fifty pounds**

If the commissary clerk of the county has reason to believe that the whole real and personal estate and effects of which the testate died possessed exceed in value one hundred and fifty pounds, he shall refuse to proceed with the application until he is satisfied as to the true value thereof.

**6 Who may administer oath**

Oaths or affirmations under this Act or under the Intestates Widows and Children's (Scotland) Act, 1875, shall, notwithstanding anything to the contrary in the last-mentioned Act, be administered in the manner provided by section 11 of the Confirmation and Probate Act, 1858.

**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; but the total amount to be charged to executors shall not in any case exceed the sums mentioned in Schedule C. annexed to this Act.

**8 Inventory duty not affected**

Provided always, that nothing herein contained shall be construed to affect any duty now payable on inventories of personal estate.