

1975 No. 539 (S. 70)
SHERIFF COURT, SCOTLAND
Act of Sederunt (Commissary Business) 1975

<i>Made</i> - - - -	<i>27th March 1975</i>
<i>Laid before Parliament</i>	<i>9th April 1975</i>
<i>Coming into Operation</i>	<i>16th May 1975</i>

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 54 of the Sheriff Courts (Scotland) Act 1876^(a) and of all other powers enabling them in that behalf, do hereby enact and declare as follows:—

1. This Act of Sederunt may be cited as the Act of Sederunt (Commissary Business) 1975 and shall come into operation on 16th May 1975.

2.—(1) In this Act of Sederunt, unless the context otherwise requires,—

“commissary business” means the business conducted prior to the Sheriff Courts (Scotland) Act 1876 by the commissary courts and by that Act transferred to the sheriff court;

“enactment” includes an order, regulation, rule or other instrument having effect by virtue of an Act;

“sheriff clerk” includes sheriff clerk depute; and

“sheriffdom” means one of the new sheriffdoms specified in article 2 of the Sheriffdoms Reorganisation Order 1974^(b).

(2) In this Act of Sederunt any reference to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

(3) The Interpretation Act 1889^(c) shall apply for the interpretation of this Act of Sederunt as it applies for the interpretation of an Act of Parliament.

3.—(1) On and after 16th May 1975 commissary business may be conducted in the commissariat of each of the sheriffdoms listed in column 1 of the Schedule to this Act of Sederunt at the places specified in relation to that sheriffdom in column 2 of the said Schedule and, subject to the provisions of sub-paragraph (2) of this paragraph shall not be conducted at any other place.

(2) On and after 16th May 1975 petitions for appointment of executors-dative may be presented, and proceedings in respect of such petitions may be conducted, in each of the sheriffdoms listed in column 1 of the Schedule to this Act of Sederunt at any place where sheriff courts are held in that sheriffdom.

4. In any sheriffdom where confirmations may be expedited or petitions presented at more places than one, a caveat lodged with a sheriff clerk at any of such places shall be held to apply to the whole sheriffdom, and a copy thereof

(a) 1876 c. 70.
(c) 1889 c. 68.

(b) S.I. 1974/2087 (1974 III, p. 8149).

shall forthwith be transmitted by such sheriff clerk to any other place in the sheriffdom where the application against which the caveat is lodged might competently be made.

5.—(1) (a) The Act of Sederunt of 15th January 1890 to regulate the places in each county at which commissary business shall be conducted and the mode of procedure and fees of court to be paid in certain commissary causes(a), as amended by the Act of Sederunt of 17th March 1903 and the Act of Sederunt (Commissary Business) (Amendment) 1960(b), are hereby repealed.

(b) Paragraphs 1, 2, 3 and 4 of Chapter V of Book L of the Codifying Act of Sederunt of 4th June 1913(c) are hereby repealed.

(2) Section 38 of the Interpretation Act 1889 shall apply as if this Act of Sederunt were an Act of Parliament and as if the Acts of Sederunt wholly or partially repealed by this Act of Sederunt were Acts of Parliament wholly or partially repealed by an Act of Parliament.

And the Lords appoint this Act of Sederunt to be entered in the Books of Sederunt.

Edinburgh,
27th March 1975.

G. C. Emslie,
I.P.D.

SCHEDULE

Sheriffdom	Places where commissary business may be conducted in the commissariat of the sheriffdom
Grampian, Highlands and Islands Tayside, Central and Fife Lothian and Borders	Aberdeen, Banff, Stonehaven, Elgin, Wick, Inverness, Nairn, Dingwall, Dornoch, Kirkwall and Lerwick Arbroath, Forfar, Dundee, Perth, Alloa, Falkirk, Stirling, Cupar, Dunfermline and Kirkcaldy
Glasgow and Strathkelvin	Haddington, Edinburgh, Linlithgow, Duns, Selkirk, Jedburgh and Peebles Glasgow
North Strathclyde South Strathclyde, Dumfries and Gallo-way	Dunoon, Dumbarton, Greenock, Kilmarnock and Paisley Dumfries, Kirkcudbright, Stranraer, Airdrie, Ayr, Hamilton and Lanark

(a) S.R. & O. 1890 p. 952.

(b) S.I. 1960/1973 (1960 III, p. 3089)

(c) S.R. & O. 1913/638 (Rev. XX, p. 664: 1913, p. 2013).

EXPLANATORY NOTE

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

The Act of Sederunt specifies (Article 3 and Schedule) at which places in each of the six new sheriffdoms established under the Sheriffdoms Reorganisation Order 1974 commissary business is to be conducted.

The remaining provisions of the Act of Sederunt are consequential.

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