SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 41.

An Act to provide facilities in Scotland for the appointment and confirmation of executors of persons engaged in war service during the present war. [17th July 1940.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Procedure in petitions or applications for appointment or confirmation as executor of persons engaged on war service and presumed dead.

1.—(1) Where there is produced with any petition or application for appointment or confirmation as executor of any person who, at any time during the war period, has been or shall be engaged in war service, a certificate or intimation issued by or on behalf of the competent authority that a report of the death of any such person has been accepted for official purposes, or that such person was missing on a specified date and that it has been presumed or concluded for official purposes that such person is dead, an oath or affirmation that to the best of the deponent's knowledge and belief such person is dead shall, for the purposes of such petition or application, be equivalent in all respects to an oath or affirmation that such person died on the date appearing in the certificate or intimation as the date on which he was missing or reported to have died.

(2) On any such petition or application being presented, the sheriff, without prejudice to any other powers and duties, may order intimation thereof to the competent authority and to any other person who may appear to him to be interested, and may direct such advertisement (if any) as he may think fit, and may, if the circumstances seem to

him so to require, delay the granting of the petition or application to any date not later than six months after the date when the certificate or intimation was issued.

(3) Notwithstanding any provision in any enactment, it shall not be necessary in any petition for appointment as executor of any person, in regard to whom such a certificate or intimation as aforesaid has been issued and produced with the petition, to aver that the person died on any specified date, but it shall be sufficient to aver that such certificate or intimation has been issued and that to the best of the petitioner's knowledge and belief the person is dead.

(4) The provisions of this section shall not apply to any petition or application presented by a creditor.

Interpretation, citation and extent.

2.—(1) In this Act—

"war service" means—

(*a*) service (whether within or outside the United Kingdom) in any of His Majesty's naval, military or air forces or the nursing service or other auxiliary service of any of these forces;

(*b*) any other service (whether within or outside the United Kingdom) in any British ship;

"competent authority" means, in the case of a person engaged in such service as is referred to in the foregoing paragraph (*a*), the Admiralty, the Army Council or the Air Council, as the case may be, and, in the case of a person serving in a British ship, the Registrar-General of Shipping and Seamen;

"war period" means the period during which the Emergency Powers (Defence) Act, 1939, is in force.

2 & 3 Geo. 6. c. 62.

(2) This Act may be cited as the Confirmation of Executors (War Service) (Scotland) Act, 1940, and shall extend to Scotland only.

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