SUPPLIED FOR THE PUBLIC SERVICE

CHAPTER 19.

An Act to make provision in regard to the Consignation of Money in the Court of Session in Scotland; and for other purposes. [27th June 1895.]

A.D. 1895.

BE it enacted by the Queen'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:—

Short title and extent.

1. This Act may be cited as the Court of Session Consignations (Scotland) Act, 1895, and shall apply to Scotland only.

Definition of "consignation."

2. In this Act the expression "consignation" shall extend and apply to any sum of money consigned or deposited in any bank under orders of the Court, or in virtue of the provisions of any Act of Parliament, and shall include any sum of money, or any bank deposit receipt, security, or other voucher for a sum of money, received by the Accountant of Court (herein-after called the Accountant), or by any of the clerks of court, as the case may be, for deposit or consignation, in any cause or proceeding, whether by order of court or otherwise, and any sum of money lodged by way of caution or security in corroboration of any bond, and also any unclaimed dividends, or special deposits, or unapplied balances, in any sequestration or cessio, deposited in any bank in terms of the Bankruptcy (Scotland) Act, 1856, or otherwise.

19 & 20 Vict. c. 79.

Accountant of court to be sole custodier of consignations.

12 & 13 Vict. c. 51.

20 & 21 Vict. c. 18.

3. The provisions of section thirty-five of the Judicial Factors Act, 1849, and of sections five and six of the Bill Chamber Procedure Act, 1857, so far as relating to consignations, are hereby repealed, and in lieu thereof it is hereby provided that the Accountant shall be the sole custodier of all consignations under this Act, and the Clerk of Court, in each process in which, after the passing of this Act, a consignation is made, shall forthwith lodge the same with the Accountant, whose receipt therefor shall be a discharge to such clerk.

No fees shall be payable to the Accountant in cases of consignations other than those which are or may be prescribed by the Lords of Council and Session with the sanction of the Treasury.

Consignations to be entered in books kept by Accountant of Court.

4. All consignations shall be entered by the Accountant in a book or books, to be kept by him for the purpose, in such form as the Lords of Council and Session may from time to time by Act of

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Sederunt prescribe, and any person interested shall be entitled to inspect such books under such regulations as to fees or otherwise as the Accountant may, with the approval of the said Lords and of the Treasury, prescribe.

Consignations to be deposited in bank.

5. Within ten days after receipt of any consignation in money the Accountant shall lodge the same on deposit receipt in one of the banks in Scotland, established by Act of Parliament or Royal Charter, and every deposit receipt for money lodged in any of the said banks representing a consignation, whether lodged by the Accountant, or by any party to a cause, or by any other person, shall be taken in name of the Accountant and his successors in office, and shall bear on the face of it the name of the party or parties by whom or on whose behalf the consignation is made, and of the cause, or proceeding, or bond to which it relates.

Responsibility of Accountant of Court for safe custody.

6. The Accountant shall be responsible for the safe custody of all consignations made with him, and shall be bound to account for the same with interest, if any, accrued thereon to the person having right thereto, subject to the orders of the Court. The Accountant shall not be liable for any loss resulting from the failure of any bank in which any consignation shall have been made as aforesaid.

Lord Ordinary in Exchequer to determine amount of consignations prior to 1889 not accounted for.

7. As soon as may be after the passing of this Act, the Lord Ordinary in Exchequer Causes, on the representation of the Queen's and Lord Treasurer's Remembrancer, shall, after such inquiry as he may deem necessary, determine the amount of consignations made prior to the first day of January, one thousand eight hundred and eighty-nine, in the name of the Accountant, or of any of the Clerks of Court, as the case may be, or deposited in bank in the name of any person by order of the Court, or in virtue of the provisions of any Act, or otherwise deposited in the name of any party or agent in a cause or proceeding, or by a trustee in a sequestration or cessio as an unclaimed dividend or special deposit, and not paid out or otherwise accounted for; and shall certify the same to the Queen's and Lord Treasurer's Remembrancer, appending to his certificate a list of the consignations made prior to the said date and found by him to be still unpaid, or not otherwise accounted for, including any interest which may have accrued thereon, and also the amount at the aforesaid date at the credit of the fund called "the Interest Account of Unclaimed Dividends," in terms of section one hundred and fifty-three of the Bankruptcy (Scotland) Act, 1856; and the Accountant or the Clerk of Court, as the case may be, shall account for, and any bank having the custody of such consignation shall pay over, within one month after the receipt of a requisition to that effect, the amount so determined, to the Queen's and Lord Treasurer's Remembrancer, who shall in exchange grant a receipt binding himself and his successors in office to relieve the said Accountant, or Clerk of Court or bank, of any claim that may be established in respect of any sum so paid over to him, which receipt shall be a discharge to the said Accountant, or the said clerk or bank,

19 & 20 Vict. c. 79.

Clerks to lodge returns of consignations subsequent to 1888 with Accountant of Court.

8. Any Clerk of Court who may have, at the passing of this Act, the custody of any consignations made with him or his predecessors in office respectively shall within six months after the passing of this Act, lodge with the Accountant a detailed statement of all consignations made with him or his predecessors in office on or after the first day of January, one thousand eight hundred and eighty-nine, and not at the date of the passing of this Act paid out or otherwise accounted for, and the Accountant shall examine and check such statement with the relative books and vouchers in the hands of the said clerk; and the said clerk shall thereafter, on being required by the Accountant, pay over to him the several amounts so found due, with interest, if any, or deliver to him the deposit receipts or other securities or vouchers applicable to the said consignations, and the Accountant shall, upon such payment being made, grant a receipt binding himself and his successors in office to relieve the said clerk so paying over or making delivery as aforesaid, of any claim that may be established in respect of such consignations and interest, and shall thereupon become responsible for any consignations so paid over or delivered.

Accountant to lodge returns of consignations with Lord President.

9. On or before the first day of April, one thousand eight hundred and ninety-seven, the Accountant shall lodge with the Lord President of the Court of Session, and with the Queen's and Lord Treasurer's Remembrancer, a detailed return of all consignations made with him and his predecessors in office, or with any of the Clerks of Court during the year ending thirty-first December, one thousand eight hundred and eighty-nine, and which are unpaid or not accounted for at the date of the said return; and, similarly, on or before the first day of April in each succeeding year, a like return of unpaid consignations shall be made in respect of the year which shall have terminated seven years prior to the previous thirty-first December, and the Accountant shall, along with the said return, deliver the deposit receipts or other vouchers, or pay the amount of such consignations mentioned therein, with any interest which may have accrued thereon, to the Queen's and Lord Treasurer's Remembrancer, and the endorsation by the said Remembrancer of any deposit receipt or other voucher shall be a sufficient warrant to a bank to pay the amount deposited, with interest, to the said Remembrancer, who shall, upon such payment being made, grant a receipt binding himself and his successors in office to relieve the Accountant of any claim that may be established in respect of such consignations and interest, and shall thereupon become responsible for any consignations so paid over or delivered.

Unclaimed dividends in a sequestration to be made over to the Queen's Remembrancer. 19 & 20 Vict. c. 79.

10. Section one hundred and fifty-three of the Bankruptcy (Scotland) Act, 1856, is hereby repealed, in so far as regards the manner in which unclaimed dividends after the lapse of twenty-five years from the closing of a sequestration and any interest thereon are to be dealt with, and in lieu thereof the Accountant shall at the end of seven years from the date of deposit hand over the deposit receipts or other securities or vouchers for any unclaimed

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dividends or special deposits or unapplied balances belonging to a bankrupt estate, and received by him in terms of the above-mentioned section, to the Queen's and Lord Treasurer's Remembrancer, who shall thereupon obtain payment, in the manner and on the conditions aforesaid, of the amount due, principal and interest, from the bank in which the deposit was made, and each bank in which a deposit of unclaimed dividends has been made shall on or before the first day of April in each year account to the said Remembrancer for the interest on the interest account of unclaimed dividends for the preceding calendar year, and a receipt under the hand of the said Remembrancer shall be a sufficient discharge to the Accountant for the duties imposed on him by the said section, and to the said banks for the payments so made by them.

Unclaimed dividends if under twenty shillings in amount.

11. It shall not be necessary for the Accountant to enter in detail in the register of unclaimed dividends the names of those creditors whose unclaimed dividends do not, respectively, exceed one pound sterling, and section one hundred and fifty-three of the Bankruptcy (Scotland) Act, 1856, in so far as inconsistent therewith, is hereby repealed.

Cases of non-compliance with the provisions of the Act.

12. The Queen's and Lord Treasurer's Remembrancer shall report to the Lord President of the Court of Session any instance of non-compliance with the provisions of this Act which may come or be brought to his knowledge, and the Queen's and Lord Treasurer's Remembrancer, or any person deputed by him, may at any time have access to the consignation books and registers of unclaimed dividends, and may call for exhibition of the deposit receipts, accounts, and all other documents applicable or relating to consignations.

Payment by Queen's Remembrancer to Exchequer.

13. It shall be lawful for the Treasury from time to time to direct the Queen's and Lord Treasurer's Remembrancer to pay over to the Exchequer out of the moneys accumulated in his hands under the provisions of this Act such sums as to them may seem fit.

Provision for deficiency in balance left with Queen's Remembrancer.

14. If at any time the moneys in the hands of the Queen's and Lord Treasurer's Remembrancer under the provisions of this Act is reduced to a sum not sufficient, in the opinion of the Treasury, to meet the demands upon it, the Treasury shall advance out of the Consolidated Fund, or the growing produce thereof, such sum as they may think necessary, not exceeding in the whole the amount of the sums paid over to the Exchequer in pursuance of this Act.

Treasury empowered to pay five thousand pounds towards improvements in Advocate's Library.

15. It shall be lawful for the Treasury to pay to the Commissioners of Her Majesty's Works and Public Buildings out of moneys accumulated under the provisions of this Act towards the making of any additions, alterations, or improvements in or about the Library of the Faculty of Advocates at or adjoining the Parliament House, Edinburgh, and of such alterations of the buildings, courts, offices, and chambers at the said Parliament House, as the said Commissioners, with the consent of the said Faculty, may think proper, such sums not exceeding in the whole the sum of five thousand pounds, as shall by the said Commissioners be required.

Right to claim moneys in Queen's Remembrancer's hands.

16. Every person having any legal claim to the moneys to be paid over in terms of this Act, or any part of them, shall have such and the like claim thereto, and such and the like right to demand and recover the same from the Queen's and Lord Treasurer's Remembrancer, after payment thereof to the said Remembrancer, as from the person or persons having possession of such moneys before payment to the said Remembrancer; and an order by the court in which any consignation has been made or received for the payment thereof, or of any part thereof, to any person or persons named, shall be sufficient warrant to the Queen's and Lord Treasurer's Remembrancer to make such payment, and such court shall continue to have jurisdiction relative to the disposal of such consignation, and the parties to the cause shall have the same rights of appeal and otherwise in case of dispute regarding the consignation as they would have had if the money had remained in the hands of the Accountant or any of the Clerks of Court.

Definition of "Clerk of Court."

17. The expression "Clerk of Court" shall mean and include the Clerk or any of the Circuit Clerks of Justiciary, the Principal, Depute, or other Clerks of Session, the Clerk of the Bills, and the Clerk of Teinds.

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FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.