

SMALL ESTATES: A guide for executors seeking Confirmation

What is "Confirmation"?

You may have been told by a bank or building society that you need to obtain "Confirmation" or a "letter of Confirmation" before they can release the money and other property of someone who has died. Confirmation is a legal document from the Court. It gives the executor(s) authority to uplift money and other property belonging to a deceased person from the holder (such as the bank), and to administer and distribute it according to law.

To obtain Confirmation, an executor must provide a list of all of the deceased's property at the time of death. The list - called an inventory - might include money, houses, land and shares. The inventory must include:

- all items of property, even those that have already been paid over to the deceased's representative(s); and
- property located in England, Wales or Northern Ireland.

Confirmation is possible only if the inventory includes at least one item of money or other property in **Scotland**.

Small estates - financial limits

If the total amount of the deceased's money and other property is **£30,000 or less**, it is called a "small estate", and the Sheriff Clerk's staff will, if you wish, prepare the inventory for you. In calculating the value of the estate, you should not deduct any debts, such as funeral expenses, gas or electricity bills, balance of mortgage, owed by the deceased, and must include interest to date of death on the bank accounts, etc. of the deceased.

If the estate exceeds £30,000, the Sheriff Clerk's staff cannot help to prepare the inventory, and you may wish to consult a solicitor. Alternatively you may complete the inventory yourself – application forms and guidance leaflets are available on the Inland Revenue website at

<http://search2.hmrc.gov.uk/kb5/hmrc/forms/view.page?formid=3322&record=DQJACJmu-f0>.

Making an appointment with the Sheriff Clerk's staff and obtaining preliminary advice

If it is a small estate and you want help from the Sheriff Clerk, you should contact the [Sheriff Clerk's Office](#) in the area where the deceased last resided. However, if that is inconvenient for you, you can ask your local Sheriff Clerk to complete the inventory for you, even if the person who died lived in an area covered by a different Sheriff Court.

You will find details of the court's location and opening times on the Scottish Court Service website (<http://www.scotcourts.gov.uk/locations/index.asp>), or you can find the phone number in the telephone directory. Please telephone to make an appointment for a "small estate interview" in advance as this will save you time and possible inconvenience when you attend.

You may find it useful to read the whole of this leaflet before phoning, in order to identify any questions you wish to ask the Sheriff Clerk's staff when phoning.

Who should attend?

If there is a Will, then normally the executor it names should attend. If more than one person is appointed as executor in a Will, only one requires to attend at the Sheriff Clerk's Office to complete the documents. However, the Confirmation will appoint all living executors, and they will all have equal authority over the distribution of the estate.

If there is no Will, the executor will normally be the next of kin. This means the surviving spouse/civil partner or, if there is no spouse/civil partner, the deceased's nearest relative. If you are not sure who is entitled to act as executor, the Sheriff Clerk will advise you. The usual order of people entitled to act as executor is:

1st – spouse or civil partner, whom failing

2nd – child, whom failing

3rd – brother/sister/parent.

If there is any confusion about who the executor is, then the Sheriff Clerk's Office will be able to advise you.

If you are unsure about the validity of a Will or have any other concerns about anything left in writing by the deceased, the Sheriff Clerk's staff will be happy to help.

If you wish, you can bring a relative or friend to the appointment.

What should you bring?

You must bring the following documents with you to the interview:

- the death certificate of the deceased (not a copy);
- full details of the estate (see under "Details of the estate" below);
- if the deceased left a Will, the original Will or testamentary writing (sometimes kept in solicitor's offices for safekeeping);
- if there is no Will, and
 - the surviving spouse is applying for the office of executor – the marriage certificate,
 - the surviving civil partner is applying for the office of executor – the certificate of registration of civil partnership,
 - the deceased was divorced at the time of death – the divorce certificate,
 - the deceased's civil partnership had been dissolved prior to his/her death – the certificate of the dissolution of civil partnership.
- the court fee, if payable (see below)
- proof of your identity – 2 documents are required – acceptable forms of identity include:
 - A government-issued document which incorporates your full name and photograph, and either your residential address, or your date of birth, i.e.
 - a valid passport,
 - a valid photocard driving licence (full or provisional),
 - a National Identity card (non-UK nationals),
 - a Firearms certificate or shotgun licence, or
 - an Identity card issued by the Electoral Office for Northern Ireland.
 - A government-issued document (without a photograph) which incorporates your full name, and either your residential address, or your date of birth, i.e.
 - a valid (old style) full UK driving licence, or
 - recent evidence of entitlement to a state or local authority funded benefit including housing benefit, council tax benefit, tax credit, pension, educational or other grant.
 - Other documents such as
 - a current council tax demand letter, or statement,
 - current bank statements, or credit/debit card statements (but not ones printed off the internet), or
 - recent utility bills (but not ones printed off the internet).

If you are unable to provide two forms of identification from the above list, you should telephone the sheriff clerk's office prior to attending, to discuss what alternative forms of identification would be acceptable.

If you are not attending the court personally, but rather submitting the application by post, then three pieces of documentary evidence are required.

Details of the estate

You must disclose every item of the estate when applying for confirmation. So you will need to provide the following details:

- Who is holding the funds (such as the name of the bank, building society or insurance company).
- The account number or other reference number.
- The value of the item at the date of death (**including any interest, bonuses or dividends due**).
- **Bank or building society accounts:** You should take the pass book to the bank or building society branch where the account is held so that the book can be updated with any interest accrued to the date of death - this is often marked on in pencil. If there is no pass book, ask the bank or building society to give you a statement. **Details of joint accounts must also be disclosed even if the holder of the fund has transferred the sum to the other party.**
- **Insurance policies:** You should ask the insurance company to give you a letter detailing the policy number and the value of the policy at the date of death (**including any bonuses payable**).
- **Premium bonds:** You should bring the actual bonds themselves and, if known, the holder's registration number.
- **National Savings Bank:** This includes National Savings Certificates and Granny Bonds. You will need a letter from the Director of Savings giving the value at the date of death including any interest.
- **Stocks and shares:** You will need to get their value at the date of death, normally from a stockbroker, bank manager or company secretary. In some cases a fee may be charged. The valuer should give you a letter showing the value of the item, plus any dividends etc. accrued.
- **Heritage:** If the deceased owned heritable property (such as a house, shop, strip of land) you will have to provide an estimated value. If you feel unable to do this, a valuation from an estate agent, solicitor or other similar person may be necessary.

The Sheriff Clerk's staff will be unable to advise or help in the legal transfer or sale of any heritable property. If such an item forms part of the deceased's estate, you should consider seeking advice from a solicitor. No sale of

heritable property can take place until a transfer of property has been correctly carried out and registered.

Attending for interview

Remember to bring with you the items listed above under “What should you bring?”.

If you wish, you can bring a relative or friend to the appointment.

The interview normally lasts 30 – 45 minutes. At the end of the interview you will be required to make a Declaration that the details and information are true and complete.

Bond of Caution

If the deceased **did not leave a Will** and you are **not** the spouse/civil partner, you will need to obtain a Bond of Caution before Confirmation can be issued. This is an insurance against someone applying for Confirmation when they are not entitled to do so, or against an executor failing to distribute the estate according to law.

You should apply to the Sheriff Clerk's Office for Confirmation in the normal way. After applying, you will be given a form to take to an insurance company which specialises in this type of work, from which you must obtain a Bond of Caution before the Sheriff Clerk can issue Confirmation. The Sheriff Clerk's office will provide you with information on Bonds of Caution and an application form, and inform you of the companies which can carry out this for you. The insurance company will charge a fee for this. Please note the Bond of Caution is not normally produced immediately.

Once you have received the Bond of Caution you should return the application for Confirmation and the Bond, along with any fee payable (see below), to the Sheriff Clerk's Office which will prepare the Confirmation without delay.

Court fees

The Sheriff Clerk does not charge for advice, information or completing the inventory and other documents. However, you will require to pay the statutory Court fee for issuing Confirmation (unless the gross estate is £5000 or less, in which case no fee is payable). The fee is payable whether or not a solicitor is acting. It is based on the gross (pre-tax) value of the estate:

Fee if the value of the estate is £5,000 or less	Nil
Fee if the value of the estate is £5,001 or more	£200
Certificates of Confirmation (see below)	£5 each

Please note that fees are changed periodically so you should ask what fee will be payable when you telephone the [Sheriff Clerk's Office](#) to arrange an appointment.

Issue of Confirmation

The Sheriff Clerk's Office will normally issue Confirmation to you within 3 working days of receiving the inventory, fee and any Will or Bond of Caution. It will be posted to your home address. You should then take or send the Confirmation to the holders of the funds to enable them to release any money due.

If there are several items of estate in the inventory, you can ask for separate Certificates of Confirmation for specific items. The certificates have the same effect as the original Confirmation but can save you time when collecting the estate. The fee for each certificate is £5.

Liability

As executor, you must pay from the estate any debts owed by the deceased. Debts could include overpayments by the Department of Work and Pensions. Debts can be claimed up to 6 months from the date of death, therefore you should retain, for 6 months, enough money to pay any debts which may become due. If you do not, you may run the risk of being held personally liable for the debt.

If you want to know more about obtaining Confirmation

If you need more information, please contact your local [Sheriff Clerk's Office](#)

Checklist for applicants

This checklist may help you to prepare for coming to Court. It will help us complete the application form, but its completion is not essential.

[Download the checklist](#)