



# Succession (Scotland) Act 2016

## 2016 asp 7

### *Forfeiture*

#### **12 Person forfeiting to be treated as having failed to survive victim** **S**

- (1) This section applies where, under the forfeiture rule, a person (“the offender”) has forfeited—
- (a) rights of succession to the estate of the deceased,
  - (b) a beneficial interest in trust property which (but for the forfeiture) the offender would have acquired in consequence of the deceased's death,
  - (c) title to property which (but for the forfeiture) the offender would have acquired in consequence of the deceased's death by virtue of a special destination.
- (2) In subsection (1)(b), “trust property” means property which, before the deceased's death, was held in trust for any person.
- (3) The offender is to be treated as having died before the deceased—
- (a) for the purposes of the rights of succession to the deceased's estate,
  - (b) in relation to the beneficial interest mentioned in subsection (1)(b),
  - (c) in relation to the title to property mentioned in subsection (1)(c),
- (as the case may be).
- (4) For the avoidance of doubt, references in this section to rights of succession to the estate of the deceased include references to—
- (a) a claim to jus relictii, jus relictiae or legitim out of that estate,
  - (b) an entitlement from that estate conferred by section 8 or 9 of the Succession (Scotland) Act 1964.
- (5) In this section, “the deceased” means the person as a result of whose death the forfeiture arose.

#### **Commencement Information**

- II** [S. 12](#) in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by [S.S.I. 2016/210, reg. 2\(1\)\(a\)\(2\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Cross Heading: Forfeiture. (See end of Document for details)*

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### 13 Protection for persons acquiring in good faith and for value **S**

- (1) This section applies where a person acquires title to property in good faith and for value (whether by purchase or otherwise).
- (2) The title is not challengeable on the ground that it was acquired (directly or indirectly) from a person who in relation to the property has incurred forfeiture under the forfeiture rule.

#### Commencement Information

- I2** [S. 13](#) in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by [S.S.I. 2016/210](#), [reg. 2\(1\)\(a\)\(2\)](#)

### 14 Power of sheriff to order sheriff clerk to execute document **S**

- (1) This section applies where a relevant sheriff is satisfied, on an application, that—
  - (a) execution by a person of a particular document is reasonably necessary to give effect to a forfeiture under the forfeiture rule, and
  - (b) the person—
    - (i) is refusing to execute the document, or
    - (ii) is unable, or otherwise failing, to execute the document.
- (2) The sheriff may make an order—
  - (a) dispensing with the execution of the document by the person, and
  - (b) directing the sheriff clerk to execute the document.
- (3) A document executed by the sheriff clerk in accordance with an order under subsection (2) has the same force and effect as if it had been executed by the person.
- (4) In subsection (1), “a relevant sheriff” means—
  - (a) if the deceased died domiciled in Scotland, a sheriff—
    - (i) of the sheriffdom in which the deceased was habitually resident at the date of death, or
    - (ii) if subsection (5) applies, of the sheriffdom of Lothian and Borders sitting at Edinburgh,
  - (b) if the deceased died domiciled other than in Scotland but at the date of death owned immovable property situated in Scotland, a sheriff of the sheriffdom in which the immovable property is situated,
  - (c) in any case, a sheriff of the sheriffdom in which the deceased's executor obtains confirmation.
- (5) This subsection applies if at the date of death—
  - (a) the deceased was not habitually resident in a particular part of Scotland, or
  - (b) the particular part of Scotland in which the deceased was habitually resident is not known or is uncertain.
- (6) In this section, “the deceased” means the person as a result of whose death the forfeiture arose.

*Changes to legislation: There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Cross Heading: Forfeiture. (See end of Document for details)*

#### Commencement Information

- I3** S. 14 in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by S.S.I. 2016/210, reg. 2(1)(a)(2)

### 15 Total relief from forfeiture rule **S**

- (1) Section 2 of the Forfeiture Act 1982 is amended as follows.
- (2) In subsection (1), after “modifying” insert “ or excluding ”.
- (3) In subsection (2)—
  - (a) after “modifying” insert “ or excluding ”,
  - (b) after “modified” insert “ or excluded ”.
- (4) In subsection (3), after “modifying” insert “ or excluding ”.
- (5) In subsection (5)—
  - (a) after “modify” insert “ or exclude ”,
  - (b) in paragraph (a), for “(but not all)” substitute “ or all ”,
  - (c) in paragraph (b), after “in respect of” insert “ all or any ”.
- (6) In subsection (6), after “section” insert “ modifying the effect of the forfeiture rule ”.

#### Commencement Information

- I4** S. 15 in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by S.S.I. 2016/210, reg. 2(1)(a)(2)

### 16 Time limit for applying for relief from forfeiture rule **S**

- (1) Section 2 of the Forfeiture Act 1982 is amended as follows.
- (2) In subsection (3), for “period of three months beginning with his conviction” substitute “ relevant period ”.
- (3) After subsection (3), insert—

“(3A) In subsection (3) above, the “relevant period” is the period of 6 months beginning with—

  - (a) the end of the period allowed for bringing an appeal against the conviction, or
  - (b) if such an appeal is brought, the conclusion of proceedings on the appeal.”.

#### Commencement Information

- I5** S. 16 in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by S.S.I. 2016/210, reg. 2(1)(a)(2)

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## 17 Repeal of the Parricide Act **S**

- (1) The Parricide Act 1594 is repealed.
- (2) For the avoidance of doubt, the forfeiture rule applies in relation to cases where a person has unlawfully killed the person's parent or grandparent as it applies in relation to other cases of unlawful killing.

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### Commencement Information

- 16** S. 17 in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by S.S.I. 2016/210, **reg. 2(1)(a)(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Cross Heading: Forfeiture.