



# Succession (Scotland) Act 2016

## 2016 asp 7

### *Testamentary documents and special destinations*

#### **4 Rectification of will: supplementary**

- (1) Subject to subsection (2), an application under section 3(1)(c) must be made within the period of 6 months commencing—
  - (a) in a case where confirmation is obtained in respect of the testator's estate, on the date of its being obtained, or
  - (b) in any other case, on the date of the testator's death.
- (2) The court may, on cause shown, consider an application which is made outwith that period of 6 months.
- (3) An order made by virtue of section 3(2) may be registered in—
  - (a) the Books of Council and Session, or
  - (b) the sheriff court books,if the will to which the order relates is registered (either before or when the order is registered) in the books in question.
- (4) Subsections (5) and (6) apply if the court is satisfied, on an application, that—
  - (a) execution by a person of a particular document is reasonably necessary to give effect to the rectified will, and
  - (b) the person—
    - (i) is refusing to execute the document, or
    - (ii) is unable, or otherwise failing, to execute the document.
- (5) The court may make an order—
  - (a) dispensing with the execution of the document by the person, and
  - (b) directing a clerk of session, or as the case may be the sheriff clerk, to execute the document.
- (6) A document executed by a clerk of session or the sheriff clerk in accordance with an order under subsection (5) has the same force and effect as if it had been executed by the person.

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*Status: This is the original version (as it was originally enacted).*

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- (7) A trustee or executor is not personally liable for distributing property in good faith in accordance with a will which, by virtue of section 3, is rectified after the distribution.
- (8) In this section, “the court” has the same meaning as in section 3.