



# Trusts (Scotland) Act 1921

1921 CHAPTER 58 11 and 12 Geo 5

## [<sup>F1</sup>4B Exercise of power of investment: power to appoint nominees

- (1) The trustees of a trust may, for the purpose of exercising the power of investment under section 4(1)(ea) of this Act—
  - (a) appoint a person to act as their nominee in relation to such of the trust estate, heritable as well as moveable, as they may determine, and
  - (b) take such steps as are necessary to secure the transfer of title to that property to their nominee.
- (2) A person may not be appointed as a nominee unless the trustees reasonably believe—
  - (a) that the appointment is appropriate in the circumstances of the trust, and
  - (b) that the proposed nominee has the skills, knowledge and expertise that it is reasonable to expect of a person acting as a nominee.
- (3) The power to appoint a nominee is subject to any restriction or exclusion imposed by or under—
  - (a) the trust deed, or
  - (b) any enactment (within the meaning of the Scotland Act 1998 (c. 46)).
- (4) An appointment as a nominee shall—
  - (a) be made in writing,
  - (b) be subject to the trustees' retaining power to—
    - (i) direct the nominee, and
    - (ii) revoke the nominee's appointment, and
  - (c) subject to subsection (4), otherwise be on such terms as to suitable remuneration and other matters as the trustees may determine.
- (5) The trustees may not appoint a nominee on any of the following terms unless it is reasonably necessary for them to do so—
  - (a) a term permitting the nominee to appoint a substitute,
  - (b) a term restricting the liability of the nominee, or of any substitute, to the trustees or to any beneficiary,

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*Changes to legislation: There are currently no known outstanding effects for the Trusts (Scotland) Act 1921, Section 4B. (See end of Document for details)*

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- (c) a term permitting the nominee, or any substitute, to act in circumstances capable of giving rise to a conflict of interest.
- (6) While a nominee continues to act for the trust, the trustees shall—
- (a) keep under review the arrangements under which the nominee acts and how those arrangements are being put into effect,
  - (b) if circumstances make it appropriate to do so, consider whether there is a need to exercise their power—
    - (i) to direct the nominee, or
    - (ii) to revoke the nominee's appointment, and
  - (c) exercise either or both of those powers if they consider that there is a need to do so.]

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#### **Textual Amendments**

**F1** S. 4A-4C inserted (1.1.2006) by [Charities and Trustee Investment \(Scotland\) Act 2005 \(asp 10\)](#), ss. {94}, 107(2); [S.S.I. 2005/644](#), [art. 2\(1\)](#), Sch.

**Changes to legislation:**

There are currently no known outstanding effects for the Trusts (Scotland) Act 1921, Section 4B.