



Trusts (Scotland) Act 1921

1921 CHAPTER 58 11 and 12 Geo 5

3 What trusts shall be held to include. **S**

All trusts shall be held to include the following powers and provisions unless the contrary be expressed (that is to say):—

- (a) Power to any trustee to resign the office of trustee;
- (b) Power to the trustee, if there be only one, or to the trustees, if there be more than one, or to a quorum of the trustees, if there be more than two, to assume new trustees;
- (c) A provision that a majority of the trustees accepting and surviving shall be a quorum;
- (d) A provision that each trustee shall be liable only for his own acts and intromissions and shall not be liable for the acts and intromissions of co-trustees and shall not be liable for omissions:

Provided that—

- (1) A sole trustee shall not be entitled to resign his office by virtue of this Act unless either (1) he has assumed new trustees and they have declared their acceptance of office, or (2) the court shall have appointed new trustees or a judicial factor as hereinafter in this Act provided; and
- (2) A trustee who has accepted any legacy or bequest or annuity expressly given on condition of the recipient thereof accepting the office of trustee under the trust shall not be entitled to resign the office of trustee by virtue of this Act, unless otherwise expressly declared in the trust deed, nor shall any trustee appointed to the office of trustee on the footing of receiving remuneration for his services be entitled so to resign that office in the absence of an express power to resign; but it shall be competent to the court, on the petition of any trustee to whom the foregoing provisions of this proviso apply, to grant authority to such trustee to resign the office of trustee on such conditions (if any) with respect to repayment or otherwise of his legacy as the court may think just; and
- (3) A judicial factor shall not, by virtue of this Act, have the power of assumption, nor shall he have the power by virtue of this Act to resign his office without judicial authority.

Changes to legislation: *Trusts (Scotland) Act 1921, Section 3 is up to date with all changes known to be in force on or before 28 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

Nothing in this section shall affect any liability incurred by any trustee prior to the date of any resignation or assumption under the provisions of this Act or of any Act repealed by this Act.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act repealed by [2024 asp 2 Sch. 2](#)