EXPLANATORY NOTES

SUCCESSION (SCOTLAND) ACT 2016

INTRODUCTION

OVERVIEW

COMMENTARY ON SECTIONS

Testamentary documents and special destinations

- Section 1 Effect of divorce, dissolution or annulment on a will
- Section 2 Effect of divorce, dissolution or annulment on a special destination
- Section 3 Rectification of will
- Section 4 Rectification of will: supplementary
- Section 5 Revocation of will not to revive earlier revoked will
- Section 6 Death before legacy vests: entitlement of issue
- Section 7 Liferent: vesting of fee other than on death
- Section 8 Destinations in wills and certain trusts: conditional institution

Survivorship

- Section 9 Uncertainty of survivorship treated as failure to survive
- Section 10 Equal division of property if order of beneficiaries' deaths uncertain
- Section 11- Testamentary requirement of survival for a particular period

Forfeiture

- Section 12 Person forfeiting to be treated as having failed to survive victim
- Section 13 Protection for persons acquiring in good faith and for value
- Section 14 Power of sheriff to order sheriff clerk to execute document
- Section 15 total relief from forfeiture rule
- Section 16 Time limit for applying for relief from forfeiture rule
- Section 17 Repeal of the Parricide Act

Estate Administration

Section 18 - Confirmation of executors: no requirement to find caution in relation to small intestate estates

Section 19 - Confirmation of executors: general exceptions to requirement to find caution

Section 20 - Confirmation of executors: power of Ministers to abolish requirement for executors dative to find caution

Section 21 - Power of Ministers to make provision requiring conditions to be met before courts appoint persons as executors dative

Section 22 - Sections 19, 20 and 21: regulations

Section 23 – Errors in distribution: protection of trustees and executors in certain circumstances

Section 24 – Protection of person acquiring title

Section 25 – Gifts made in contemplation of death

Section 26 – Abolition of right to claim in respect of expense of mournings

Section 27 – Additional ground of jurisdiction: executor confirmed in Scotland

General

Section 28- Interpretation

Section 29 – Consequential provision

Section 30 - Ancillary Provision

Section 31 – Commencement

Section 32 – Short Title

Schedule

PARLIAMENTARY HISTORY