



Succession (Scotland) Act 2016

2016 asp 7

Testamentary documents and special destinations

1 Effect of divorce, dissolution or annulment on will

- (1) This section applies where—
 - (a) a person (“the testator”) by a will—
 - (i) confers a benefit or power of appointment on a person, or
 - (ii) appoints a person as a trustee or executor,
 - (b) that person (“P”) is, or becomes, the testator’s spouse or civil partner,
 - (c) the marriage or civil partnership is terminated, and
 - (d) the testator then dies.
- (2) P is to be treated as having died before the testator for the purposes of the will except for the purposes of any appointment of P or another person as a guardian.
- (3) Subsection (2) does not apply if the will expressly provides that P is to—
 - (a) have the benefit or power of appointment, or
 - (b) be so appointed as a trustee or executor,even if the marriage or civil partnership is terminated.
- (4) For the purposes of this section, a marriage is terminated in the event of divorce or annulment and a civil partnership is terminated in the event of dissolution or annulment.
- (5) In this section, references to “divorce”, “dissolution” and “annulment” are to divorce, dissolution or annulment—
 - (a) obtained from a court of civil jurisdiction in the United Kingdom, the Channel Islands or the Isle of Man, or
 - (b) if not so obtained, the validity of which is recognised in Scotland.