



Succession (Scotland) Act 2016

2016 asp 7

Testamentary documents and special destinations

3 Rectification of will

- (1) This section applies where—
 - (a) a person (“the testator”) dies domiciled in Scotland, leaving a will,
 - (b) the will was drafted not by the testator but on the testator's instructions,
 - (c) after the date of death, a person applies to the court for rectification of the will, and
 - (d) the court is satisfied that the will fails to express accurately what was instructed.
- (2) The court may order that the will be rectified in such manner as it may specify so as to give effect to the testator's instructions.
- (3) For the purposes of subsections (1)(d) and (2), the court may have regard to evidence extrinsic to the will.
- (4) A will rectified by virtue of this section has effect as if so rectified when executed (but see sections 4(7) and 24).
- (5) In this section, “the court” means—
 - (a) the Court of Session, or
 - (b) a relevant sheriff.
- (6) In subsection (5)(b), “a relevant sheriff” means—
 - (a) a sheriff—
 - (i) of the sheriffdom in which the testator was habitually resident at the date of death, or
 - (ii) if subsection (7) applies, of the sheriffdom of Lothian and Borders sitting at Edinburgh, or
 - (b) a sheriff of the sheriffdom in which the testator's executor obtains confirmation.
- (7) This subsection applies if at the date of death—
 - (a) the testator was not habitually resident in a particular part of Scotland, or

Changes to legislation: There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Section 3. (See end of Document for details)

- (b) the particular part of Scotland in which the testator was habitually resident is not known or is uncertain.

Commencement Information

- II** [S. 3](#) in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by [S.S.I. 2016/210, reg. 2\(1\)\(a\)\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Section 3.