



# Trusts and Succession (Scotland) Act 2024

## 2024 asp 2

### TRUSTS AND SUCCESSION (SCOTLAND) ACT 2024

#### PART 1

#### TRUSTS

#### CHAPTER 1

#### APPOINTMENT, ASSUMPTION, RESIGNATION, REMOVAL AND DISCHARGE OF TRUSTEES

##### *Appointment or assumption*

- 1 Appointment of additional or new trustee by court: general
- 2 Appointment of new trustee by truster
- 3 Assumption of additional trustee
- 4 Operation of appointment or assumption as general conveyance of trust property

##### *Resignation and removal*

- 5 Resignation of trustee
- 6 Resignation of incapable trustee
- 7 Removal of trustee by court
- 8 Removal of certain trustees by court: unfitness
- 9 Removal of trustee by co-trustees
- 10 Removal of trustee by beneficiaries

##### *Saving as respects liability of trustees*

- 11 Saving as respects liability of trustees

##### *Discharge*

- 12 Discharge where trustee has resigned, died or been removed from office

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## CHAPTER 2

### DECISION-MAKING BY TRUSTEES

- 13 Decisions: preliminary
- 14 Making of decision

## CHAPTER 3

### POWERS AND DUTIES OF TRUSTEES

#### *Powers: general*

- 15 General powers of trustees
- 16 Conferring of additional powers by court
- 17 Power to take out insurance

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- 18 Power of investment
- 19 Exercise of power of investment
- 20 Exercise of power of investment: further provision

#### *Sale of property*

- 21 Charitable trusts: sale of property

#### *Delegation and the appointment of agents and nominees*

- 22 Delegation and the appointment of agents
- 23 Appointment of nominees

#### *Power of advancement*

- 24 Power to advance from capital

#### *Apportionment*

- 25 Exercise of power to apportion between or among beneficiaries
- 26 Time apportionment
- 27 Apportionment: disapplication of certain rules

#### *Payments from income*

- 28 Power to make payments etc. from income

#### *Duty to provide information*

- 29 Trustees' duty to provide information other than on request
- 30 Trustees' duty to provide information on request

#### *Trustees' duty of care etc.*

- 31 Trustees' duty of care etc.

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*Breach of duty etc.*

- 32 Breach of fiduciary duty at instigation or request of beneficiary or with consent of beneficiary
- 33 Order relieving trustee of consequences of actings which are ultra vires
- 34 Provision purporting to limit liability for, or indemnify for, breach of fiduciary duty
- 35 Order relieving trustee of consequences of entering into a transaction in breach of fiduciary duty

*Personal liability of trustees*

- 36 Trustees' personal liability for beneficiary's loss
- 37 Errors in distribution: circumstances in which trustee not personally liable

**CHAPTER 4**

CONTRACTUAL RIGHTS, DAMAGES AND THE VALIDITY  
OF CERTAIN TRANSACTIONS AND DOCUMENTS

*Contractual rights*

- 38 Contractual rights

*Damages*

- 39 Damages for loss resulting from trustee's act or omission in ordinary course of administration
- 40 Bringing of action for damages for loss resulting from trustee's act or omission in ordinary course of administration
- 41 Delictual liability: trustee's right of relief against other trustees
- 42 Trustees' liability in relation to certain obligations

*Validity of certain transactions and documents*

- 43 Validity of certain transactions entered into by trustees
- 44 Validity of certain deeds and other documents bearing to be executed by trustees

**CHAPTER 5**

DURATION OF TRUST

- 45 Abolition of restrictions on accumulation and on creation of future interests

**CHAPTER 6**

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*Private purpose trusts: general*

- 46 Private purpose trusts: general

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### *Applications to the court*

- 47 Application for order requiring fulfilment of purpose of private purpose trust
- 48 Application to reform trust

### *Supervisors*

- 49 Appointment of supervisor
- 50 Rights and remedies of supervisor
- 51 Application to supervisors of certain provisions relating to removal from office and to decision making
- 52 Resignation of supervisor

## **CHAPTER 7**

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- 53 Protectors
- 54 Appointment of new protector
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- 56 Resignation of protector
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## **CHAPTER 8**

### POWERS OF THE COURT

#### *Variation and termination of private trusts*

- 58 Arrangements to vary or terminate a trust etc.
- 59 Agreement or approval for purposes of section 58(2)
- 60 Giving of approval by court
- 61 Interests of negligible value
- 62 Arrangements to vary or revoke alimentary purposes
- 63 Views of persons under 18
- 64 No requirement for agreement of truster

#### *Alteration of trust purposes*

- 65 Alteration of trust purposes on material change in circumstances

#### *Powers in relation to ex officio trustees*

- 66 Appointment by the court of a trustee to take the place of an ex officio trustee
- 67 Office supplying ex officio trustee

#### *Application in respect of defective exercise of fiduciary power etc.*

- 68 Application in respect of defective exercise of fiduciary power etc.

#### *Directions relating to trust matters and the estates of deceased persons*

- 69 Applications in relation to trusts and to the estates of deceased persons

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### *Expenses*

- 70 Expenses of litigation
- 71 Expenses of application

### *Miscellaneous powers*

- 72 Authorisation to make payments on basis that an event has or has not occurred or will or will not occur
- 73 Completion of title by beneficiary
- 74 Warrant to vest corporeal moveable property in beneficiary where trustee has died or become incapable
- 75 Superintendence order as to investment and distribution of trust property

## **PART 2**

### SUCCESSION

#### *Effect of divorce, dissolution or annulment on special destination*

- 76 Effect of divorce, dissolution or annulment on special destination

#### *Rights of succession to intestate estate*

- 77 Rights of succession to intestate estate
- 78 Application to court by survivor for provision on intestacy

## **PART 3**

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

- 79 Amendment of Requirements of Writing (Scotland) Act 1995
- 80 Amendment of Confirmation of Executors (Scotland) Act 1858

#### *General*

- 81 Interpretation
- 82 Power to amend jurisdiction in relation to trusts
- 83 Meaning of incapable and related expressions
- 84 Persons who are untraceable
- 85 Modification of enactments
- 86 Ancillary provision
- 87 Repeals
- 88 Commencement
- 89 Short title

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#### Schedule 1 — Modification of enactments

- 1 Titles to Land Consolidation (Scotland) Act 1868
- 2 Judicial Factors (Scotland) Act 1880
- 3 National Parks and Access to the Countryside Act 1949
- 4 Historic Buildings and Ancient Monuments Act 1953
- 5 Town and Country Planning (Scotland) Act 1959
- 6 Trusts (Scotland) Act 1961
- 7 Trustee Investments Act 1961

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- 8 Land Compensation (Scotland) Act 1963
- 9 Countryside (Scotland) Act 1967
- 10 Agriculture Act 1970
- 11 Prescription and Limitation (Scotland) Act 1973
- 12 National Health Service (Scotland) Act 1978
- 13 Ancient Monuments and Archaeological Areas Act 1979
- 14 Married Women's Policies of Assurance (Scotland) (Amendment) Act 1980
- 15 Civil Jurisdiction and Judgments Act 1982
- 16 Coal Mining Subsidence Act 1991
- 17 Age of Legal Capacity (Scotland) Act 1991
- 18 Children (Scotland) Act 1995
- 19 National Parks (Scotland) Act 2000
- 20 Christmas Day and New Year's Day Trading (Scotland) Act 2007
- 21 Public Appointments and Public Bodies etc. (Scotland) Act 2003
- 22 Charities and Trustee Investment (Scotland) Act 2005

Schedule 2 — Repeals

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**Changes and effects yet to be applied to :**

- s. 76 coming into force by [2024 asp 2 s. 88\(2\)](#)
- s. 77 coming into force by [2024 asp 2 s. 88\(2\)](#)