



Trusts and Succession (Scotland) Act 2024

2024 asp 2

PART 1

TRUSTS

CHAPTER 1

APPOINTMENT, ASSUMPTION, RESIGNATION, REMOVAL AND DISCHARGE OF TRUSTEES

PROSPECTIVE

Appointment or assumption

1 Appointment of additional or new trustee by court: general

- (1) The court may, as regards any trust—
 - (a) on the application of one or more of the trustees or of any person with an interest in the trust property, appoint an additional trustee if the court considers it necessary to do so for the administration of the trust, or
 - (b) if no capable trustee exists or is traceable, appoint a new trustee on the application of any person with an interest in the trust property.
- (2) The court ceases to have power at common law to appoint a trustee.
- (3) The making of an appointment under [subsection \(1\)\(b\)](#) removes any existing trustee from the office of trustee.
- (4) [This section](#) applies irrespective of when the trust was created.

Commencement Information

- II** S. 1 not in force at Royal Assent, see [s. 88\(3\)](#)

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Trusts and Succession (Scotland) Act 2024, Cross Heading: Appointment or assumption. (See end of Document for details)

2 Appointment of new trustee by truster

- (1) Except in so far as the trust deed, expressly or by implication, provides otherwise (or, in a case where there is no trust deed, the context requires or implies otherwise), if no capable trustee exists or is traceable the truster may appoint a new trustee.
- (2) The making of an appointment under [subsection \(1\)](#) removes any existing trustee from the office of trustee.
- (3) [This section](#)—
 - (a) applies irrespective of when the trust was created, but
 - (b) does not apply as respects a public trust.

Commencement Information

I2 S. 2 not in force at Royal Assent, see [s. 88\(3\)](#)

3 Assumption of additional trustee

- (1) Except in so far as the trust deed, expressly or by implication, provides otherwise (or, in a case where there is no trust deed, the context requires or implies otherwise), the trustees may assume an additional trustee.
- (2) [Subsection \(3\)](#) applies where—
 - (a) a protector has been appointed in respect of the trust,
 - (b) there has been conferred on the protector, by virtue of [paragraph \(b\)](#) of [section 53\(3\)](#), the power to direct the assumption of an additional trustee, and
 - (c) the protector gives such a direction.
- (3) An additional trustee must, without delay, be assumed by the other trustees.
- (4) [This section](#) applies irrespective of when the trust was created.

Commencement Information

I3 S. 3 not in force at Royal Assent, see [s. 88\(3\)](#)

4 Operation of appointment or assumption as general conveyance of trust property

- (1) The appointment under [section 1\(1\)\(a\)](#), or assumption under [section 3](#), of an additional trustee operates as a general conveyance of the trust property in favour, jointly, of the additional trustee and the existing trustees.
- (2) The appointment, under [section 1\(1\)\(b\)](#) or [2\(1\)](#), of a new trustee operates as a general conveyance of the trust property in favour of the new trustee.
- (3) The appointment of a trustee, on the application under [section 66](#) of an ex officio trustee, operates as a general conveyance of the trust property—
 - (a) in favour, jointly, of the appointed trustee and the existing trustees (other than the applicant), or

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(b) if there are no existing trustees (other than the applicant), in favour of the appointed trustee.

(4) This section applies—

- (a) irrespective of when the trust was created, but
- (b) only as respects an assumption which takes place, or an appointment which is made, after the section comes into force.

Commencement Information

I4 S. 4 not in force at Royal Assent, see **s. 88(3)**

Status:

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Changes to legislation:

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