



Trusts and Succession (Scotland) Act 2024

2024 asp 2

PART 1

TRUSTS

CHAPTER 2

DECISION-MAKING BY TRUSTEES

14 Making of decision

- (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), a decision binds the trustees only if made by a majority of those for the time being able to make it.
- (2) 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), for the purposes of [subsection \(1\)](#) a trustee is not to be regarded as able to make a decision who—
 - (a) has or might have a personal interest in the decision,
 - (b) is incapable, or
 - (c) is untraceable.
- (3) But [subsection \(2\)\(a\)](#) is to be disregarded if (either or both)—
 - (a) all the beneficiaries know of the personal interest and consent to the trustee acting,
 - (b) the truster appointed the trustee in the knowledge that such a decision might require to be taken and that the trustee would have a personal interest in it (or must be taken to have appointed the trustee in that knowledge).
- (4) For the purposes of [subsection \(2\)\(a\)](#), a trustee of a public trust is not to be regarded as having a personal interest in a decision insofar as—
 - (a) the decision is intended to benefit the public or a particular section of it, and

Status: This is the original version (as it was originally enacted).

- (b) the trustee in question may derive a benefit from the decision solely as a result of being a member of the public or, as the case may be, the particular section of it.
- (5) In [subsection \(3\)\(a\)](#), the reference to beneficiaries is, in relation to any beneficiary who has not attained the age of 16 years or is incapable, to be construed as a reference to an appropriate person in relation to the beneficiary (see section 81(2)).
- (6) [This section](#) applies—
- (a) irrespective of when the trust was created, but
 - (b) only as regards a decision taken after the section comes into force.