



Trusts and Succession (Scotland) Act 2024

2024 asp 2

PART 1

TRUSTS

CHAPTER 3

POWERS AND DUTIES OF TRUSTEES

Breach of duty etc.

PROSPECTIVE

35 Order relieving trustee of consequences of entering into a transaction in breach of fiduciary duty

- (1) [This section](#) applies where a trustee has entered into, or proposes to enter into, a transaction in breach of a fiduciary duty.
- (2) The court may, on the application of the trustee, if it thinks fit and if the conditions mentioned in [subsection \(3\)](#) are satisfied make such order, relieving the trustee of the consequences of breaching that duty, as seems to the court to be just.
- (3) The conditions are—
 - (a) that the transaction has benefited, or is likely to benefit, both the trust property and (collectively) the beneficiaries, and
 - (b) that the terms of the transaction are at least as favourable to the trust property as those likely to have been, or to be, obtained in a comparable commercial transaction at arms-length.
- (4) [This section](#) applies—
 - (a) irrespective of when the trust was created, but
 - (b) only as respects a transaction entered into, or to be entered into, after the section comes into force.

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Trusts and Succession (Scotland) Act 2024, Section 35. (See end of Document for details)

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Commencement Information

II S. 35 not in force at Royal Assent, see [s. 88\(3\)](#)

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