



Trusts and Succession (Scotland) Act 2024

2024 asp 2

PART 1

TRUSTS

CHAPTER 1

APPOINTMENT, ASSUMPTION, RESIGNATION, REMOVAL AND DISCHARGE OF TRUSTEES

Resignation and removal

PROSPECTIVE

6 Resignation of incapable trustee

- (1) Where a trustee is incapable, the power in section 5(1) may be exercised by the trustee's guardian ("G") on behalf of the trustee (and in such a case, the resignation will, for the purposes of this Act, be treated as a resignation by the trustee).
- (2) But where subsection (3) applies, G may do so only after—
 - (a) an additional trustee is assumed under section 3,
 - (b) an additional trustee is appointed—
 - (i) under section 1 or 2, or
 - (ii) by G, or
 - (c) a judicial factor is appointed to administer the trust.
- (3) This subsection applies where—
 - (a) the incapable trustee is a sole trustee, or
 - (b) in G's opinion, no other trustee exists who is both capable and traceable.
- (4) Any resignation given by G on behalf of the incapable trustee in breach of subsection (2) is of no effect.

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 6. (See end of Document for details)

- (5) Section 4(2) (general conveyance of trust property) applies to an appointment of a trustee by G under subsection (2)(b)(ii) as it applies to an appointment of a trustee under section 1(1)(b) or 2(1).
- (6) Section 5(5) applies to a resignation given by G on behalf of an incapable trustee in accordance with this section as it applies to a resignation given by a trustee under section 5.
- (7) This section applies—
- (a) irrespective of when the trust was created, but
 - (b) only as respects a resignation given after this section comes into force.

Commencement Information

II S. 6 not in force at Royal Assent, see **s. 88(3)**

Status:

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Changes to legislation:

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