



Trusts and Succession (Scotland) Act 2024

2024 asp 2

PART 1

TRUSTS

CHAPTER 8

POWERS OF THE COURT

Expenses

PROSPECTIVE

70 Expenses of litigation

- (1) Subject to the following provisions of [this section](#), a trustee does not incur personal liability for the expenses of civil litigation to which the trust is party.
- (2) A trustee may be found personally liable, in whole or in part, for the expenses of civil litigation to which the trust is party if—
 - (a) the litigation is, in the opinion of the court, unnecessary,
 - (b) the litigation relates to the trustee's opposing the appointment of a judicial factor to administer the trust in place of the trustee and the trustee is unsuccessful both—
 - (i) in opposing the appointment, and
 - (ii) as regards being removed from office,
 - (c) the litigation relates to the trustee's opposing the reduction of the trust deed and the trustee is unsuccessful in opposing the reduction,
 - (d) the trustee has, by breach of duty, brought about the litigation,
 - (e) the trustee is part of a minority of the body of trustees and that minority has, in the name of the trust, pursued the litigation—
 - (i) without consulting such of the other trustees as are both capable and traceable, and

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 70. (See end of Document for details)

- (ii) unsuccessfully,
 - (f) the trustee is part of a minority of the body of trustees and that minority has, in the name of the trust, defended the litigation—
 - (i) without consulting such of the other trustees as are both capable and traceable, and
 - (ii) without the defence being of any benefit to the trust, or
 - (g) the trust property is (or is likely to be) insufficient to meet the expenses incurred.
- (3) Where, by virtue of [subsection \(2\)\(a\) to \(f\)](#), a trustee is found personally liable for the expenses of civil litigation to which the trust is party, the court may allow the trustee relief against the trust property if and in so far as the court considers it appropriate to do so.
- (4) Where a trust is party to an ongoing civil litigation the court may, on the application of a party, make a determination about the personal liability (or relief from such liability) of a trustee for expenses yet to be incurred.
- (5) [This section](#) applies irrespective of when the trust was created.

Commencement Information

II S. 70 not in force at Royal Assent, see [s. 88\(3\)](#)

Status:

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Changes to legislation:

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