



# Trusts (Scotland) Act 1921

1921 CHAPTER 58 11 and 12 Geo 5

## **8 Conveyances to non-existing or unidentifiable persons.**

- (1) Where in any deed, whether inter vivos or mortis causa, heritable or moveable property is conveyed to any person in liferent, and in fee to persons who, when such conveyance comes into operation, are unborn or incapable of ascertainment, the person to whom the property is conveyed in liferent shall not be deemed to be beneficially entitled to the property in fee by reason only that the liferent is not expressed in the deed to be a liferent allenary; and all such conveyances as aforesaid shall, unless a contrary intention appears in the deed, take effect in the same manner and in all respects as if the liferent were declared to be a liferent allenary; provided always that this subsection shall not apply to any conveyance which has come into operation before the passing of this Act.

For the purposes of this subsection, the date at which any conveyance in liferent and fee as aforesaid comes into operation shall be deemed to be the date at which the person to whom the liferent is conveyed first becomes entitled to receive the rents or income of the property.

- (2) Where under any conveyance, whether coming into operation before or after the passing of this Act, any property is conveyed to one person in liferent and in fee to persons who, when such conveyance comes into operation, are unborn or incapable of ascertainment, it shall be competent to the court, on the application of the liferenter, whether or not he would, according to the existing law, be deemed to be fiduciary fiar, or of any person to whom the fee or any part thereof bears to be presumptively destined, or who may have an interest under such conveyance notwithstanding that such interest is prospective or contingent, or of the Accountant of Court:—
- (a) To grant authority to the fiduciary fiar to exercise all or such of the powers, or to do all or such of the acts, competent to a trustee at Common Law or under this Act, as to the court may seem fit:
  - (b) To appoint a trustee or trustees (of whom the liferenter or fiduciary fiar may be one) with all the powers of trustees at Common Law and under this Act, or a judicial factor, to hold the said property in trust in place of the liferenter or fiduciary fiar; and to authorise and ordain the fiduciary fiar to execute and deliver all such deeds as may be necessary for the completion of title to the

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*Changes to legislation: There are currently no known outstanding effects for the Trusts (Scotland) Act 1921, Section 8. (See end of Document for details)*

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said property by such trustee or trustees or judicial factor; or otherwise, to grant warrant to such trustee or trustees or judicial factor to complete a title to the said property in the same manner and to the same effect as under a warrant in favour of a trustee or trustees granted in terms of the section of this Act relating to the appointment of new trustees by the court, or a warrant in favour of a judicial factor granted in terms of section twenty-four of the <sup>M1</sup>Titles to Land Consolidation (Scotland) Act, 1868, or section forty-four of the <sup>M2</sup>Conveyancing (Scotland) Act, 1874, as the case may be. The expense of completing the title as aforesaid shall, unless the court otherwise directs, be a charge against the capital of the estate.

- (3) For the purposes of this section, all references to a trust deed in this Act contained shall be read and construed as a reference to the conveyance of the property in liferent and fee as aforesaid.

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**Marginal Citations**

**M1** 1868 c. 101.

**M2** 1874 c. 94.

**Changes to legislation:**

There are currently no known outstanding effects for the Trusts (Scotland) Act 1921, Section 8.