
DRAFT STATUTORY INSTRUMENTS

2009 No.

The Unit Trusts (Electronic Communications) Order 2009

Gratuitous unilateral obligations relating to units in authorised unit trust schemes

4.—(1) This article extends to Scotland only.

(2) Subject to paragraph (5), section 1(2)(a)(ii) of the Requirements of Writing (Scotland) Act 1995⁽¹⁾ (which requires certain gratuitous unilateral obligations to be in writing) shall not apply (if it would otherwise do so) to any gratuitous unilateral obligation relating to units in an authorised unit trust scheme where—

- (a) the obligation is created by means of electronic communication;
- (b) the electronic communication is made by the debtor in the obligation; and
- (c) such evidence (if any) as the trustee or manager of the scheme, being the person responsible for the register of unitholders in accordance with the trust deed, may require to prove the right of the person referred to in sub-paragraph (b) to create the obligation is provided to the trustee or manager.

(3) Where section 1(2)(a)(ii) of that Act does not apply by virtue of paragraph (2), the obligation shall not be considered an obligation mentioned in subsection (2)(a) of that section for the purposes of subsection (3).

(4) The trustee or manager mentioned in paragraph (2)(c) may refuse to register a transfer of units by means of electronic communication.

(5) This article shall be of no effect in a particular case if the trustee or manager mentioned in paragraph (2)(c) refuses to register the transfer of units which would, apart from paragraph (4), be made by the creation of the obligation in that case.