



Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

1980 CHAPTER 55

Trusts, factors and succession

8 Amendment of section 2 of Trusts (Scotland) Act 1961.

In section 2 of the ^{M1}Trusts (Scotland) Act 1961 (validity of certain transactions by trustees), for subsection (2) there are substituted the following subsections—

- “(2) Nothing in subsection (1) of this section shall affect any question of liability between any of the trustees on the one hand and any co-trustee or any of the beneficiaries on the other hand.
- (3) Without prejudice to the operation of subsection (1) of this section, where in relation to the trust estate or any part thereof a judicial factor thinks it expedient to do any of the acts mentioned in that subsection but the act in question might be at variance with the terms or purposes of the trust, he may, subject to the following provisions of this section, apply to the Accountant of Court for his consent to the doing of the act.
- (4) Where an application is made under subsection (3) of this section to the Accountant of Court for his consent to the doing of an act to which that subsection applies, he may grant the application subject to such conditions (including conditions as to price) as he thinks fit if—
- (a) he considers that the doing of the act is in the best interests of the owner of the trust estate to which the judicial factor’s appointment relates or of any person to whom the owner owes a duty of support; and
 - (b) he is satisfied—
 - (i) that the judicial factor is not expressly prohibited by the terms of his appointment from doing that act; and
 - (ii) that there has been compliance with the provisions of subsection (5) of this section and of any rules made thereunder; and

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, Section 8. (See end of Document for details)

- (c) no objection is made to the doing of the act under subsection (5) of this section.
- (5) A judicial factor proposing to make an application under subsection (3) of this section to the Accountant of Court shall notify such persons or such class or classes of persons as may be specified in rules of court in such manner as may be so specified of the proposed application, the act to which it relates, and of their right to object to him doing that act within such time and in such manner as the rules may specify; and the rules may make different provision in respect of different classes of judicial factors, and may make provision exempting a judicial factor or a class of judicial factors from giving notification under this subsection in such circumstances as the rules may specify.
- (6) Where a judicial factor does any act in accordance with the consent of the Accountant of Court granted under subsection (4) of this section and in compliance with the provisions of this section and of any rules made thereunder, it shall be treated as being not at variance with the terms or purposes of the trust.”.

Modifications etc. (not altering text)

- C1** The text of ss. 2(3), 4, 5, 7–10, 13–16, 17(4), 19, 21, 22(1)(a)(b)(d), 24, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
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Marginal Citations

- M1** 1961 c. 57.

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