



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

^{F1}PART 1

CHARITIES

^{F1}CHAPTER 7A

CHARITY MERGERS

^{F1}64D Legacies: effect of charity merger being notified

- (1) This section applies where—
 - (a) a person (the “testator”) by will bequeaths a legacy to a charity,
 - (b) the charity to which the legacy is bequeathed becomes a transferor under a charity merger,
 - (c) the transferor either—
 - (i) acquires a vested right in the legacy, or
 - (ii) does not acquire a vested right in the legacy by reason only of the transferor having wound up or dissolved in connection with the merger, and
 - (d) notice of the merger was given in accordance with section 64B before the date on which the transferor acquires or (as the case may be) would, but for winding up or dissolving, have acquired the vested right in the legacy.
- (2) The legacy is to be treated as having vested in the transferee under the merger unless it is clear from the terms of the will that the testator intended otherwise.
- (3) Without prejudice to the generality of subsection (2)—
 - (a) it is to be regarded as clear from the terms of the will that the testator intended otherwise if the will provides expressly that the legacy is not to be paid to a transferee under a charity merger,

Changes to legislation: Charities and Trustee Investment (Scotland) Act 2005, Section 64D is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) it is not to be regarded as clear from the terms of the will that the testator intended otherwise only by reason of the will providing that the legacy is bequeathed—
 - (i) to the charity, which failing to another person (or persons),
 - (ii) to the charity and another person (or persons) and to whichever of them is still in existence or, as the case may be, is the survivor (or survivors) of them.
- (4) Where the legacy is bequeathed to more than one person, the share of it which is to be treated as having vested in the transferee is the share that has vested or (as the case may be) would, but for winding up or dissolving, have vested in the transferor.
- (5) Subsection (6) applies where—
 - (a) the transferee (“Charity A”) becomes the transferor under a further merger, and
 - (b) notice of the further merger was given in accordance with section 64B before the date on which either—
 - (i) the legacy was treated as having vested in Charity A by virtue of subsection (2), or
 - (ii) the legacy would have been treated as having vested in Charity A by virtue of subsection (2) but for Charity A having been wound up or dissolved in connection with the further merger.
- (6) The legacy is to be treated as having vested in the transferee under the further merger (and so on).
- (7) In this section, a “will” means any document of a testamentary nature and includes a reference to—
 - (a) a testamentary trust disposition and settlement,
 - (b) a codicil.]

Textual Amendments

F1 Pt. 1 Ch. 7A inserted (1.4.2024 for specified purposes) by [Charities \(Regulation and Administration\) \(Scotland\) Act 2023 \(asp 5\)](#), **ss. 13(2), 21(2)** (with s. 13(3)); S.S.I. 2024/63, reg. 2(1), sch. Pt. 1

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(1A) inserted by [2023 asp 5 sch. para. 1\(2\)](#)
- s. 3(3)(aa) inserted by [2023 asp 5 s. 2\(2\)\(a\)](#)
- s. 17(1)(ba) inserted by [2023 asp 5 s. 3\(2\)](#)
- s. 44(1)(ca) inserted by [2023 asp 5 s. 10\(2\)\(a\)\(i\)](#)
- s. 44(4A) inserted by [2023 asp 5 s. 10\(2\)\(b\)](#)
- s. 45B and cross-heading inserted by [2023 asp 5 s. 10\(3\)](#)
- s. 66A and cross-heading inserted by [2023 asp 5 s. 3\(3\)](#)
- s. 69(2)(a)(ai) inserted by [2023 asp 5 s. 4\(2\)\(a\)\(i\)](#)
- s. 69(2)(b)(i) words in s. 69(2)(b) renumbered as s. 69(2)(b)(i) by [2023 asp 5 s. 5\(2\)\(a\)\(i\)](#)
- s. 69(2)(b)(i) words inserted by [2023 asp 5 s. 5\(2\)\(a\)\(ii\)](#)
- s. 69(2)(b)(ii) inserted by [2023 asp 5 s. 5\(2\)\(a\)\(iii\)](#)
- s. 69(2)(f)-(i) inserted by [2023 asp 5 s. 5\(2\)\(d\)](#)
- s. 69(2)(da)(db) inserted by [2023 asp 5 s. 5\(2\)\(c\)](#)
- s. 69(2A) inserted by [2023 asp 5 s. 5\(3\)\(b\)](#)
- s. 69(3A) inserted by [2023 asp 5 s. 5\(3\)\(c\)](#)
- s. 69(7) inserted by [2023 asp 5 s. 5\(3\)\(e\)](#)
- s. 69A inserted by [2023 asp 5 s. 4\(3\)](#)
- s. 69B inserted by [2023 asp 5 s. 6\(2\)](#)
- s. 70(4)-(6) inserted by [2023 asp 5 s. 5\(4\)\(b\)](#)
- s. 70ZA70ZB inserted by [2023 asp 5 s. 7\(3\)](#)
- s. 71(pc) inserted by [2023 asp 5 s. 7\(4\)](#)
- s. 103(5)(ca) inserted by [2023 asp 5 s. 5\(5\)](#)
- s. 103(5)(cb) inserted by [2023 asp 5 s. 4\(4\)](#)