



# Succession (Scotland) Act 2016

## 2016 asp 7

### *Survivorship*

#### **9      Uncertainty of survivorship treated as failure to survive**

- (1) Where two persons die simultaneously or in circumstances in which it is uncertain who survived whom, each is to be treated as having failed to survive the other for all purposes affecting title or succession to property.
- (2) Where a person mentioned in subsection (1) (“the testator”) by a will confers a benefit on a person on the condition that the other person mentioned in subsection (1) dies before the testator, the condition that the person dies before the testator (however it is expressed) is to be read as a condition that the person fails to survive the testator.
- (3) This section is subject to section 10.

#### **10     Equal division of property if order of beneficiaries’ deaths uncertain**

- (1) This section applies, instead of section 9, for the purposes of determining rights of succession or title to property where—
  - (a) property is to pass, or be transferred, to—
    - (i) the estate of whichever member of a group of persons dies first (or the estates of whichever members die first),
    - (ii) whichever member of a group of persons survives the other members (or whichever members survive the other members), or
    - (iii) the members of a group of persons equally or the survivor (or survivors) of them,
  - (b) two (or more) of the members of the group die simultaneously or in circumstances in which the order of death is uncertain,
  - (c) had the deaths not been simultaneous or (as the case may be) had the order of death been certain, the property would have passed, or been transferred, to one (or more) of the persons mentioned in paragraph (b), and
  - (d) apart from this section, no provision has been made to deal with that situation.
- (2) The property is to be divided equally between (or among) the estates of the persons mentioned in subsection (1)(b).

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*Status: This is the original version (as it was originally enacted).*

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- (3) For the purposes of this section, a “group of persons” may consist of two persons or more than two persons.
- (4) This section does not apply if the property is to pass under a will and the persons mentioned in subsection (1)(b) and the testator die simultaneously or in circumstances in which the order of death is uncertain.

## **11 Testamentary requirement of survival for a particular period**

Where—

- (a) a provision in a will requires that a person survives the testator for a specified period in order to receive a benefit under the will, and
- (b) the person survives the testator but dies in circumstances in which it is uncertain whether the person survived for the specified period,

the person is to be treated as having failed to survive the testator for the specified period.