



# Trusts and Succession (Scotland) Act 2024

## 2024 asp 2

### PART 1 **S**

#### TRUSTS

### CHAPTER 7 **S**

#### PROTECTORS

PROSPECTIVE

#### 53 **Protectors** **S**

- (1) The truster may by the trust deed—
  - (a) make provision for the appointment of a person (to be known as a “protector”) to oversee the exercise by the trustees of their functions, and
  - (b) require the trustees to obtain the consent of the protector before exercising (or before exercising in circumstances specified in the trust deed) such of those functions as may be so specified.
- (2) For the purposes of [subsection \(1\)](#) the truster may, by the trust deed, confer powers on the protector.
- (3) Without prejudice to the generality of [subsection \(2\)](#), powers conferred by virtue of that subsection may include the power to—
  - (a) direct the trustees to remove, under [section 9\(1\)](#), one of their number from office,
  - (b) direct the trustees to assume, under [section 3\(1\)](#), an additional trustee,
  - (c) withhold, whether conditionally or unconditionally, consent required by trustees to—
    - (i) a person being given or refused a beneficial interest, or
    - (ii) such other matter to which consent may be required by trustees by virtue of [subsection \(1\)\(b\)](#),
  - (d) make an application under [section 65\(1\)](#),

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*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Trusts and Succession (Scotland) Act 2024, Section 53. (See end of Document for details)*

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- (e) oppose any application made under that section,
  - (f) verify the trust accounts, and
  - (g) represent—
    - (i) an incapable person,
    - (ii) a person who has not attained the age of 16 years,
    - (iii) a beneficiary not yet ascertained,
    - (iv) a potential beneficiary not yet ascertained, or
    - (v) a person who is untraceable.
- (4) Except in so far as the trust deed, expressly or by implication, provides otherwise, the protector may, on application to the trustees, inspect, without charge and at any reasonable time, any document held by them or on their behalf.
- (5) The duties of the protector are fiduciary obligations; and the protector is subject to a duty of care.
- (6) It is not competent to appoint—
  - (a) a trustee to be the protector of the trust, or
  - (b) the protector of the trust to be a trustee.
- (7) It is competent for the truster to appoint the truster’s own self to be the protector of the trust.
- (8) Except in so far as the trust deed, expressly or by implication, provides otherwise, it is competent for there to be more than one protector of the trust at any time.
- (9) [This section](#) applies irrespective of when the trust was created.

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**Commencement Information**

**II** S. 53 not in force at Royal Assent, see [s. 88\(3\)](#)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Trusts and Succession (Scotland) Act 2024, Section 53.