



# Trusts and Succession (Scotland) Act 2024

## 2024 asp 2

### PART 1

### TRUSTS

### CHAPTER 1

#### APPOINTMENT, ASSUMPTION, RESIGNATION, REMOVAL AND DISCHARGE OF TRUSTEES

#### *Resignation and removal*

#### **8 Removal of certain trustees by court: unfitness**

- (1) For the purposes of section 7(1)(a), a trustee to whom subsection (2) applies is to be regarded as unfit to carry out the duties of a trustee (and so may be removed from office).
- (2) This subsection applies to any trustee—
- (a) who is—
    - (i) an executor nominate of a testator (“T”),
    - (ii) a trustee of a trust established by T under a testamentary writing, or
    - (iii) an executor dative appointed in respect of the estate of a deceased person (“D”), and
  - (b) who—
    - (i) is being prosecuted in Scotland for the murder or culpable homicide of T or, as the case may be, D,
    - (ii) has been convicted, whether before or after the coming into force of this section, in Scotland of such an offence as regards T or, as the case may be, D,
    - (iii) is being prosecuted in a jurisdiction outside Scotland for an offence which, in the opinion of the court, is equivalent to the murder or culpable homicide of T or, as the case may be, D, or

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**Status:** Point in time view as at 26/06/2024.

**Changes to legislation:** There are currently no known outstanding effects for the Trusts and Succession (Scotland) Act 2024, Section 8. (See end of Document for details)

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- (iv) has been convicted, whether before or after the coming into force of this section, in a jurisdiction outside Scotland of such an offence as regards T or, as the case may be, D.
- (3) For the purposes of subsection (2)(b), a trustee is to be regarded as being prosecuted for an offence if—
- (a) a prosecutor has initiated proceedings against the trustee in respect of the offence, and
  - (b) those proceedings have not been dismissed or resulted in the conviction or acquittal of the trustee in respect of the offence.
- (4) This section is without prejudice to any power of the court to find that a trustee to whom subsection (2)(a) applies (but to whom subsection (2)(b) does not apply) is unfit to carry out the duties of a trustee as a result of—
- (a) having acted (or being suspected of having acted) in a manner that caused or contributed to the death of T or, as the case may be, D, or
  - (b) having otherwise been involved (or being suspected of having otherwise been involved) in the death of T or, as the case may be, D.

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**Commencement Information**

- I1** S. 8 not in force at Royal Assent, see [s. 88\(3\)](#)
- I2** S. 8 in force at 26.6.2024 by [S.S.I. 2024/164](#), [reg. 2](#), [sch.](#)

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