



# 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*

#### **9 Removal of trustee by co-trustees**

- (1) A trustee who is—
  - (a) incapable,
  - (b) convicted of an offence involving dishonesty,
  - (c) sentenced to imprisonment on conviction of an offence, or
  - (d) imprisoned for contempt of court or for not having paid a fine,may be removed from office by a majority of the other trustees.
- (2) Except in so far as the trust deed expressly provides otherwise, a trustee who is—
  - (a) a member of a regulated profession (such as a solicitor, accountant, financial adviser or teacher), and
  - (b) appointed or assumed as trustee to provide professional services in relation to managing the affairs of trusts in the course of business,may, in the circumstances described in subsection (3), be removed from office by a majority of the other trustees.
- (3) The circumstances are that the trustee—
  - (a) is no longer a member of the regulated profession in question, or
  - (b) is such a member, but is not entitled to practise as such.
- (4) In a case where—
  - (a) two or more trustees meet the description in subsection (2)(a) and (b), and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the circumstances described in subsection (3) apply to each of them, neither (or none) of those trustees are, for the purpose of section 14, to be regarded as able to make a decision in respect of their removal.
- (5) Subsection (6) applies where—
- (a) a protector has been appointed in respect of the trust,
  - (b) there has been conferred on the protector, by virtue of paragraph (a) of section 53(3), the power to direct the removal of a trustee from office, and
  - (c) the protector gives such a direction.
- (6) The trustee to whom the direction relates must, without delay, be removed from office by the other trustees.
- (7) A person who is removed from office as trustee under this section is to be given notice of the decision to remove and the date on which it was made as soon as reasonably practicable after it is made.
- (8) This section applies—
- (a) irrespective of when the trust was created, but
  - (b) paragraphs (b) to (d) of subsection (1) are to be disregarded in relation to, respectively, a conviction obtained, a sentence passed or an imprisonment effected before the section comes into force.