



Succession (Scotland) Act 2016

2016 asp 7

Testamentary documents and special destinations

4 Rectification of will: supplementary

- (1) Subject to subsection (2), an application under section 3(1)(c) must be made within the period of 6 months commencing—
 - (a) in a case where confirmation is obtained in respect of the testator's estate, on the date of its being obtained, or
 - (b) in any other case, on the date of the testator's death.
- (2) The court may, on cause shown, consider an application which is made outwith that period of 6 months.
- (3) An order made by virtue of section 3(2) may be registered in—
 - (a) the Books of Council and Session, or
 - (b) the sheriff court books,if the will to which the order relates is registered (either before or when the order is registered) in the books in question.
- (4) Subsections (5) and (6) apply if the court is satisfied, on an application, that—
 - (a) execution by a person of a particular document is reasonably necessary to give effect to the rectified will, and
 - (b) the person—
 - (i) is refusing to execute the document, or
 - (ii) is unable, or otherwise failing, to execute the document.
- (5) The court may make an order—
 - (a) dispensing with the execution of the document by the person, and
 - (b) directing a clerk of session, or as the case may be the sheriff clerk, to execute the document.
- (6) A document executed by a clerk of session or the sheriff clerk in accordance with an order under subsection (5) has the same force and effect as if it had been executed by the person.

Changes to legislation: There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Section 4. (See end of Document for details)

(7) A trustee or executor is not personally liable for distributing property in good faith in accordance with a will which, by virtue of section 3, is rectified after the distribution.

(8) In this section, “the court” has the same meaning as in section 3.

Commencement Information

II [S. 4](#) in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by [S.S.I. 2016/210, reg. 2\(1\)\(a\)\(2\)](#)

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