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Stuart McMillan, MSP
Convener,
Delegated Powers and Law Reform Committee

By email to:
DPLR.Committee@parliament.scot

3 November 2023

Dear Convener,

Trusts and Succession (Scotland) Bill

I am writing to inform you of my intention to lodge amendments to the Trusts and Succession (Scotland) Bill that would make clear that an executor convicted of, or being prosecuted for, the murder or culpable homicide of the deceased will be regarded as unfit and can therefore be removed from office by the court.

If the Scottish Parliament accepts our amendments, an application to remove can be made at the appropriate sheriff court and the provision will be retrospective so, for example, an executor convicted of murder before the provision comes into force could be removed from office. In addition, the effect of our amendments would be that, where a sheriff is considering an application for the appointment of an executor dative and is satisfied that the person seeking appointment has been convicted of, or is being prosecuted for, the murder or culpable homicide of the deceased the sheriff must refuse it.

The Scottish Government committed to legislate at the next suitable opportunity to prevent an unlawful killer being appointed as executor. For specific reasons, no such provision could be included in the Trusts and Succession Bill when it was introduced but it was my intention to try and use the Bill to make this change, as I have said to Parliament on a number of occasions. The approach we are taking is considered to be more practical, predictable and legally certain.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot
Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot



I hope the Committee finds this information of some assistance ahead of Stage 2.

SIOBHIAN BROWN

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