

# Trusts and Succession (Scotland) Bill

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## Revised Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Group 1: Resignation and removal of trustees**

1, 2, 2A, 3, 4

#### **Group 2: Minor and technical changes**

5, 6, 14, 15, 16, 17, 18, 19, 20

#### **Group 3: Sale of heritable properties to charities**

7, 8, 9, 10, 12, 11

#### **Group 4: Nominees: regulations about what constitutes a good cause (sub-custodians)**

13

#### **Group 5: Protectors**

21

#### **Group 6: Trusts which may have their purposes altered**

22

# THIS IS NOT THE MARSHALLED LIST

## Amendments in debating order

### Group 1: Resignation and removal of trustees

#### **Siobhian Brown**

- 1 In section 5, page 3, line 6, leave out <who has accepted office in writing or who> and insert <and the trustee has accepted office or>

#### **Stuart McMillan**

- 2 In section 7, page 6, line 2, at end insert—

<(1C) In a case where—

(a) two or more trustees meet the description in subsection (1A)(a) and (b), and

(b) the circumstances described in subsection (1B) apply to each of them,

- 5 neither (or none) of those trustees are, for the purpose of section 12, to be regarded as able to make a decision in respect of their removal.

(1D) Subsections (1A) to (1C) apply in relation to a trustee which is a partnership, company or other body corporate as they apply in relation to a trustee who is an individual but as if the references to the trustee being—

- 10 (a) a member of a regulated profession (or entitled to practise as such), and

(b) appointed or assumed to provide professional services in relation to managing the affairs of trusts in the course of business,

were references to the individual who is (or was) a member of a regulated profession and provided such professional services to the trust as an employee or partner of the partnership or as an employee or director of the company or body corporate.>

15

#### **Stuart McMillan**

- 2A As an amendment to amendment 2, leave out lines 7 to 15

#### **Siobhian Brown**

- 3 In section 7, page 6, line 9, at end insert—

<( ) 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.>

#### **Siobhian Brown**

- 4 In section 8, page 6, line 26, at end insert—

<( ) 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.>

## THIS IS NOT THE MARSHALLED LIST

### **Group 2: Minor and technical changes**

#### **Siobhian Brown**

- 5 In section 12, page 8, line 25, leave out <a particular section of the public> and insert <the public or a particular section of it>

#### **Siobhian Brown**

- 6 In section 12, page 8, line 27, leave out <that section of the public> and insert <the public or, as the case may be, the particular section of it>

#### **Siobhian Brown**

- 14 In section 30, page 22, line 14, leave out <transaction> and insert <action or decision>

#### **Siobhian Brown**

- 15 In section 30, page 22, line 14, leave out <transactions> and insert <actions or decisions>

#### **Siobhian Brown**

- 16 In section 32, page 23, line 4, after <trustee> insert <only>

#### **Siobhian Brown**

- 17 In section 32, page 23, line 14, at end insert—

<( ) This section is subject to the other provisions of this Act concerning the personal liability of trustees (including, in particular, sections 35, 36 and 65).>

#### **Siobhian Brown**

- 18 In section 35, page 25, line 4, leave out <personal> and insert <private>

#### **Siobhian Brown**

- 19 In section 38, page 26, line 12, leave out from <recoverable—> to the end of line 14 and insert <recoverable, in whole or in part, from the trustee's private property (to the extent of the trustee's failure) and the balance (if any) from the trust property.>

#### **Siobhian Brown**

- 20 In section 41, page 27, line 33, leave out <unless specifically anticipated in such trusts> and insert <(except in so far as the trust deed expressly provides for accumulation in anticipation of any change in the law)>

### **Group 3: Sale of heritable properties to charities**

#### **Siobhian Brown**

- 7 In section 17B, page 11, line 36, leave out <For the avoidance of doubt> and insert <Except in so far as the trust deed expressly or by implication provides otherwise>

## THIS IS NOT THE MARSHALLED LIST

### **Siobhian Brown**

- 8 In section 17B, page 12, line 2, leave out <charitable trust> and insert <charity>

### **Siobhian Brown**

- 9 In section 17B, page 12, line 2, at end insert—

<(2) But this section is without prejudice to any duty imposed by the Charities and Trustee Investment (Scotland) Act 2005 to act in the interests of the charity (see, in particular, section 66 of that Act).>

### **Siobhian Brown**

- 10 In section 17B, page 12, line 2, at end insert—

<(3) For the purposes of this section, a “charity” is a non-natural person—

(a) registered in the Scottish Charity Register,

(b) which—

(i) is registered as a charity in England and Wales in accordance with section 30 of the Charities Act 2011, or

(ii) by virtue of subsection (2) of that section, is not required to register as a charity under that section,

(c) which—

(i) is registered as a charity in Northern Ireland in accordance with section 16 of the Charities Act (Northern Ireland) 2008, or

(ii) by virtue of subsection (2A) of that section, is not required to register as a charity under that section.>

### **Siobhian Brown**

- 12 In section 17B, page 12, line 2, at end insert—

<( ) The Scottish Ministers may by regulations modify subsection (3) so as to specify further descriptions of person who are a charity for the purposes of this section.

( ) Regulations under this section are subject to the affirmative procedure.>

### **Siobhian Brown**

- 11 In section 17B, page 12, line 2, at end insert—

<( ) This section—

(a) does not apply as respects a trust created before the section comes into force, and

(b) is without prejudice to any other power of trustees in relation to the selling of trust property.>

**THIS IS NOT THE MARSHALLED LIST**

**Group 4: Nominees: regulations about what constitutes a good cause (sub-custodians)**

**Siobhian Brown**

**13** In section 19, page 14, line 10, at end insert—

- <( ) The Scottish Ministers may, by regulations, specify particular circumstances which may constitute a good cause for the purpose of subsection (8).
- ( ) Regulations under this section are subject to the negative procedure.>

**Group 5: Protectors**

**Siobhian Brown**

**21** In section 49, page 31, leave out lines 16 to 20 and insert—

- <( ) 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),>

**Group 6: Trusts which may have their purposes altered**

**Siobhian Brown**

**22** In section 61, page 37, line 16, leave out <private purpose> and insert <public>



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