

Succession (Scotland) Bill

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: Survivorship

1, 7, 9, 10

Group 2: Executors

2, 3, 4, 5, 6, 8

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Amendments in debating order

Group 1: Survivorship

Paul Wheelhouse

- 1 In section 6, page 4, line 17, leave out <dies before the> and insert <fails to survive the date of>

Paul Wheelhouse

- 7 In section 24, page 10, line 21, leave out <repeals> and insert <modifies>

Paul Wheelhouse

- 9 In the schedule, page 12, line 5, at beginning insert—

<() The Succession (Scotland) Act 1964 is modified as follows.

() In section 5(1), for “predeceased” substitute “failed to survive”.

() In section 6(1)(b)—

(a) for “predeceased” in the first place where it occurs substitute “failed to survive”,

(b) for “predeceased persons” substitute “persons who have failed to survive the deceased”.

() In section 11—

(a) in subsection (1), for “predeceased by a child who” substitute “in circumstances where a child who has failed to survive the deceased”,

(b) in subsection (2)(b)—

(i) for “predeceased” in the first place where it occurs substitute “failed to survive”,

(ii) for “predeceased persons” substitute “persons who have failed to survive the deceased”.

()>

Paul Wheelhouse

- 10 In the schedule, page 12, line 5, leave out <of the Succession (Scotland) Act 1964>

Group 2: Executors

Paul Wheelhouse

- 2 Before section 18, insert—

<Confirmation of executors: no requirement to find caution in relation to small intestate estate

(1) The Small Intestate Estates Act is amended as follows—

(a) in section 3, for “on caution being found by the applicant according to the practice of the commissary court” substitute “without requiring the applicant to find caution”,

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- (b) in the form of confirmation in Schedule B, the words “, and that has [*or have*] likewise found caution for acts and intromissions as executor [*or executors*]” are repealed.
- (2) As well as in relation to applications under section 3 of the Small Intestate Estates Act made after this section comes into force, the amendments made by subsection (1) apply in relation to applications under that section of that Act made before this section comes into force which are not by then determined.
- (3) In this section, “the Small Intestate Estates Act” means the Intestates Widows and Children (Scotland) Act 1875.
- (4) In section 2 of the Confirmation of Executors (Scotland) Act 1823—
 - (a) after paragraph (b), insert—

“See also section 3 of the Intestates Widows and Children (Scotland) Act 1875.”,
 - (b) for “all other cases” substitute “cases where caution is required to be found”.>

Paul Wheelhouse

3 Before section 18, insert—

<Confirmation of executors: general exceptions to requirement to find caution

- (1) In section 2 of the Confirmation of Executors (Scotland) Act 1823, in paragraph (b) after “spouse” insert “or civil partner”.
- (2) The Scottish Ministers may by regulations make provision modifying section 2 of the Confirmation of Executors (Scotland) Act 1823 to the effect that cases additional to those for the time being set out there are cases in which caution is not to be required to be found.>

Paul Wheelhouse

4 Before section 18, insert—

<Confirmation of executors: power of Ministers to abolish requirement for executors dative to find caution

The Scottish Ministers may by regulations make provision to the effect that persons appointed as executors dative are not in any circumstances to be required to find caution before confirmation is granted.>

Paul Wheelhouse

5 Before section 18, insert—

<Power of Ministers to make provision requiring conditions to be met before courts appoint persons as executors dative

- (1) The Scottish Ministers may by regulations make provision to the effect that courts are not to appoint persons as executors dative unless particular conditions are met.
- (2) Such conditions may, in particular, include—
 - (a) the court being satisfied that the person is suitable for appointment,
 - (b) the court being provided with particular information about—
 - (i) the person seeking appointment,

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- (ii) the estate in respect of which the appointment is to be made.
- (3) Regulations under this section may make provision in relation to—
 - (a) all appointments of persons as executors dative, or
 - (b) appointments of persons as executors dative of particular descriptions.
- (4) Regulations under this section making provision to the effect that the courts are not to appoint persons as executors dative unless satisfied that they are suitable for appointment may include provision enabling or requiring a court—
 - (a) to have regard to particular factors, or consider particular information, in determining whether a person is suitable for appointment,
 - (b) to be satisfied that a person is suitable for appointment if particular conditions are met,
 - (c) to impose particular conditions which must be satisfied before the court may be satisfied that a person is suitable for appointment.
- (5) Regulations under this section may make different provision in relation to appointments of persons as executors dative of different descriptions.>

Paul Wheelhouse

6 Before section 18, insert—

<Sections (*Confirmation of executors: general exceptions to requirement to find caution*), (*Confirmation of executors: power of Ministers to abolish requirement for executors dative to find caution*) and (*Power of Ministers to make provision requiring conditions to be met before courts appoint persons as executors dative*): regulations

- (1) This section applies in relation to regulations under section (*Confirmation of executors: general exceptions to requirement to find caution*), (*Confirmation of executors: power of Ministers to abolish requirement for executors dative to find caution*) or (*Power of Ministers to make provision requiring conditions to be met before courts appoint persons as executors dative*).
- (2) The regulations may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.
- (3) The regulations may modify any enactment (including, in the case of regulations under section (*Confirmation of executors: power of Ministers to abolish requirement for executors dative to find caution*), this Act).
- (4) The regulations are subject to the affirmative procedure.>

Paul Wheelhouse

8 In section 26, page 10, line 36, after <Sections> insert <(*Confirmation of executors: no requirement to find caution in relation to small intestate estate*) to (*Sections (Confirmation of executors: general exceptions to requirement to find caution*), (*Confirmation of executors: power of Ministers to abolish requirement for executors dative to find caution*) and (*Power of Ministers to make provision requiring conditions to be met before courts appoint persons as executors dative*): regulations),>