SCOTTISH STATUTORY INSTRUMENTS

2026 No. 323 (C. 36)

TRUSTS

SUCCESSION

The Trusts and Succession (Scotland) Act 2024 (Commencement No. 2 and Saving and Transitory Provision) Regulations 2026

Made - - - -	*3rd November 2026*
Laid before the Scottish Parliament	*5th November 2026*
Coming into force - -	*14th December 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 88(3) and (4) of the Trusts and Succession (Scotland) Act 2024(**a**) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Trusts and Succession (Scotland) Act 2024 (Commencement No. 2 and Saving and Transitory Provision) Regulations 2026 and come into force on 14 December 2026.

(2) In these Regulations, "the Act" means the Trusts and Succession (Scotland) Act 2024.

Appointed day

2.—(1) 14 December 2026 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the schedule of these Regulations (the subject matter of which is described in the corresponding entry in column 2 of that table).

(2) Where a purpose is specified in column 3 of the table in the schedule, the corresponding provision in column 1 comes into force in accordance with paragraph (1) only for that purpose.

(3) This regulation is subject to regulation 3.

Saving and transitory provision

3.—(1) This regulation applies until section 46(1) of the Act (private purpose trusts: general) is in force for all purposes.

(2) Any enactment or rule of the Scots law of trusts repealed by this Act may continue to be applied by any court to any trust which would be a private purpose trust in terms of the definition in section 46(1) (as if that subsection was in force for the purpose of this regulation only).

(**a**) 2024 asp 2.

(3) Section 69(1) of the Act has effect as if for the words "Trustees, protectors" there were substituted "Trustees or protectors".

KIRSTEN OSWALD
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
3rd November 2026

SCHEDULE

Regulation 2

Provisions of the Act coming into force on 14 December 2026

Column 1 *(provision of the Act)*	Column 2 *(subject matter)*	Column 3 *(purpose)*
Section 1	Appointment of additional or new trustee by court: general	
Section 2	Appointment of new trustee by truster	
Section 3	Assumption of additional trustee	
Section 4	Operation of appointment or assumption as general conveyance of trust property	
Section 5	Resignation of trustee	
Section 6	Resignation of incapable trustee	
Section 7	Removal of trustee by court	For all remaining purposes
Section 9(1), (5), (6) and (8)(b)	Removal of trustee by co-trustees	
Section 10 except (4)(b)	Removal of trustee by beneficiaries	
Section 11	Saving as respects liability of trustees	
Section 12	Discharge where trustee has resigned, died or been removed from office	
Section 13	Decisions: preliminary	For all remaining purposes
Section 14	Making of decision	For all remaining purposes
Section 15	General powers of trustees	
Section 16 except (4)(a)	Conferring of additional powers by court	
Section 17	Power to take out insurance	
Section 18	Power of investment	
Section 19	Exercise of power of investment	
Section 20	Exercise of power of investment: further provision	
Section 21(1), (2) and (6)	Charitable trusts: sale of property	
Section 22	Delegation and the appointment of agents	
Section 23(1) to (11) and (14)	Appointment of nominees	

Column 1 *(provision of the Act)*	Column 2 *(subject matter)*	Column 3 *(purpose)*
Section 24	Power to advance from capital	
Section 25	Exercise of power to apportion between or among beneficiaries	
Section 26	Time apportionment	
Section 27	Apportionment: disapplication of certain rules	
Section 28	Power to make payments etc. from income	
Section 29 except (7)(b)	Trustees' duty to provide information other than on request	
Section 30 except (12)(h)(ii) and (14)(b)	Trustees' duty to provide information on request	
Section 31	Trustees' duty of care etc	
Section 32	Breach of fiduciary duty at instigation or request of beneficiary or with consent of beneficiary	
Section 33	Order relieving trustee of consequences of actings which are ultra vires	
Section 34	Provision purporting to limit liability for, or indemnify for, breach of fiduciary duty	
Section 35	Order relieving trustee of consequences of entering into a transaction in breach of fiduciary duty.	
Section 36	Trustees' personal liability for beneficiary's loss	
Section 37	Errors in distribution: circumstances in which trustee not personally liable	
Chapter 4 of Part 1 (sections 38 to 44)	Contractual rights, damages and the validity of certain transactions and documents	
Section 45	Abolition of restrictions on accumulation and on creation of future interests	
Chapter 7 of Part 1 (sections 53 to 57)	Protectors	
Chapter 8 of Part 1 (sections 58 to 75) except: (a) the words “a private purpose trust or” where they occur in sections 58(4)(b), 59(9)(b), 60(4)(b), 61(3)(b), 62(6)(b), 63(6)(b), 64(2)(b); (b) 65(9)(h)(ii); (c) the words “or supervisor” in sections 68(7)(b)(ii) and 69(1); and (d) the definition of “supervisor” in section 69(3).	Powers of the Court	
Section 78	Application to court by survivor for provision on intestacy	

Column 1	Column 2	Column 3
(provision of the Act)	*(subject matter)*	*(purpose)*
Section 79	Amendment of Requirements of Writing (Scotland) Act 1995	
Section 84	Persons who are untraceable	
Section 85 and schedule 1	Modification of enactments	
Section 87 and schedule 2	Repeals	For all remaining purposes

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring certain provisions of the Trusts and Succession (Scotland) Act 2024 ("the Act") into force on 14 December 2026.

Regulation 2 appoints 14 December 2026 as the day on which the provisions specified in the table in the schedule come into force. Where a provision of the Act has already been commenced for certain purposes by regulations, those provisions are brought into force for all remaining purposes (though see below on private purpose trusts).

Part 1 of the Act is not yet brought into force for the purposes of the provisions regarding "private purpose trusts" in Chapter 6 of Part 1 (sections 46 to 52) and, subject to regulation 3(2), references to such trusts are not brought into force by these Regulations. Regulation 3(2) allows the courts to continue to apply any applicable existing Scots law of trusts to any trusts which meet the definition of a private purpose trust provided for by section 46(1) of the Act, until such time as that provision is commenced in full. The provision does not change the law on whether an arrangement can be considered a trust at common law. Regulation 3(3) temporarily omits a reference to "supervisors" (a term used in Chapter 6 which is not yet in force). This in line with other references to supervisors, which are not commenced by these Regulations.

The Bill for the Act received Royal Assent on 30 January 2024. By virtue of section 88(1), that section, together with sections 86 and 89, came into force on 31 January 2024. By virtue of section 88(2), sections 76 and 77 came into force on 30 April 2024.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Trusts and Succession (Scotland) Act 2024 have been brought into force by commencement regulations made before the date of these Regulations.

Provision	*Date of Commencement*	*S.S.I. No.*
Section 7 for the purposes of section 8	26 June 2024	2024/164
Section 8	26 June 2024	2024/164
Section 9(2), (3), (4), (7) and (8)(a)	26 June 2024	2024/164
Section 13 for the purpose of section 9(2), (3), (4), (7) and 8(a)	26 June 2024	2024/164

Section 14 for the purpose of section 9(2), (3), (4), (7) and 8(a)	26 June 2024	2024/164
Section 21(3), (4) and (5)	26 June 2024	2024/164
Section 23(12) and (13)	26 June 2024	2024/164
Section 80	26 June 2024	2024/164
Section 81	26 June 2024	2024/164
Section 82	26 June 2024	2024/164
Section 83	26 June 2024	2024/164
Section 87 and schedule 2 for the purpose of repealing section 3(c) of the Trusts (Scotland) Act 1921 insofar as it relates to decisions taken in pursuance of section 9(2), (3), (4), (7) and (8)(a) of the Act	26 June 2024	2024/164

© Crown Copyright 2026

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

ISBN 978-0-11-106739-0

£6.40

http://www.legislation.gov.uk/id/ssi/2026/323

9 780111 067390