

Scottish Courts and Tribunals Service



Stuart McMillan MSP

Convener of the Delegated Powers
and Law Reform Committee

By email:

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25 May 2023

Chief Executive's Office
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Our Ref: C2023-152

Dear Mr McMillan

Trusts and Succession (Scotland) Bill

Thank you for your letter of 9 May 2023 to Andrew Campbell, Legal Secretary to the Lord President, seeking information on trust cases considered at the Court of Session to assist the Delegated Powers and Law Reform committee with its consideration of the above noted Bill.

Your letter has been passed to me, as the information sought is held by the Scottish Courts and Tribunals Service (SCTS).

I have addressed each point of your request below.

1. The number of Trust cases considered at the Court of Session, over each of the last 10 years.

Please see the below table which details the numbers of petitions lodged in the Court of Session over the last 10 calendar years:

| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|------|------|------|------|------|------|------|------|------|------|------|
| Number Trust petitions lodged Inner House | 0 | 0 | 0 | 3 | 6 | 1 | 2 | 3 | 2 | 7 | 10 |
| Number Trust petitions lodged Outer House | 4 | 4 | 0 | 2 | 6 | 3 | 0 | 1 | 3 | 0 | 2 |

2. Any information you are able to provide in relation to each of those cases in terms of:

(a) litigants:

For data protection reasons, it is not possible to provide personal information, such as the names of petitioners, in respect of litigant information in these cases. The SCTS would require a lawful basis to further process litigant's personal information in this way.

It may be that some summary information can be disclosed, which is not personal information, once it is understood what litigant information the committee requires. I would be very grateful if you were able to further clarify what information is required in respect of litigant information, should the committee require further information in this regard.

If personal information is required, I would be very grateful if you could detail what information is necessary for your purposes and indicate the lawful basis for the sharing of this information under the UK GDPR (such as Article 6(1)(f) or (e)).

(b) the size of the trust involved.

It is not possible to provide a conclusive list of the sizes (i.e. value) of the trusts involved in these petitions.

By way of explanation, petitions of this nature crave the court to undertake a specific action in respect of the arrangement a trust. This can include appointing, removing or discharging trustees and the approval for the arrangement or variation of a trust etc.

As such, the petitions themselves do not provide overall total values of trusts - which can include properties and other physical assets. It is not possible for court staff to interrogate these petitions and attribute values to each trust.

3. Any information in relation to the costs involved with any such cases.

There are various fees payable for submitting applications to the court and for lodging documents at different stages of the court procedure. The fees are set out in Scottish Statutory Instruments (referred to as a Fee Orders).

The Court of Session etc. Fees Order 2022 is available to view online –

<https://www.legislation.gov.uk/ssi/2022/185/schedule/2/made>

Please see '*Section C Petitions*' for details of associated fees in respect of petitions.

The costs in each trust case can vary, depending on whether or not the petition is defended, and the different stages in procedure reached in the case.

In an undefended trust action, there would simply be the initial court registration fee.

I hope this is of assistance to the committee. Please do let me know if I can be of further assistance.

Yours sincerely

Eric McQueen
Chief Executive