Changes to legislation: *Administration of Estates (Northern Ireland) Order 1979 is up to date with all changes known to be in force on or before 08 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1979 No. 1575 (N.I. 14)

Administration of Estates (Northern Ireland) Order 1979

[3rd December
\- - - - - - *1979]*

Modifications etc. (not altering text)

C1 Order: functions of the Lord Chancellor are transferred to the Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1)(6), **Sch. 17 para. 32** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Administration of Estates (Northern Ireland) Order 1979.

(2) *Commencement*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"administration" includes all letters of administration of the estate of a deceased person whether granted with or without a will annexed and whether for general, special, or limited purposes; and references to an administrator shall be construed accordingly;

"branch office business", in relation to any branch office of the Probate and Matrimonial Office, means any business for the purposes of this Order which, by virtue of an order made under section 68(3) of the Judicature (Northern Ireland) Act 1978 or by virtue of paragraph 9 of Schedule 6 to that Act, may be transacted at that branch office;

"contentious matter" means any matter not falling within the definition of non-contentious probate business;

"the court" means the High Court or, where a county court has jurisdiction, a county court;

"executor" includes an original executor and one who is executor by virtue of the chain of representation;

"grant" (as a noun) means a grant of representation;

"intestate" includes a person who leaves no will and one who leaves a will but dies intestate as to some beneficial interest in his property;

"the Master" means the Master (Probate and Matrimonial);

"non-contentious probate business" means the business of obtaining grants where there is no contention as to the right thereto, the obtaining of grants in contested cases where the contest has been terminated, the entry of caveats under Article 14 and all business of a non-contentious nature in matters of testacy or intestacy not being proceedings in an action;

"personal representative" means an executor or administrator;

"probate" means probate of a will;

"the Registrar" means a Registrar (Probate and Matrimonial);

"reseal" means reseal under the Colonial Probates Act 1892 as amended by section 4 of the Administration of Estates Act (Northern Ireland) 1971 ;

"representation" means probate or administration;

"statutory provision" has the meaning given by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

"will" includes codicil.

PART II

GRANTS OF PROBATE OR ADMINISTRATION

Introductory

Application of Part II

3. Except as provided to the contrary in this Part, the provisions of this Part have effect only in relation to the estates of persons dying after the end of the year 1955.

Jurisdiction of High Court

Power of High Court to grant probate and letters of administration

4.—(1) The High Court has power—

(a) to grant probate of the will of a deceased person to one or more than one of his executors; and

(b) to grant administration of the estate of a deceased person, or of any part of his estate, to such person as the High Court may determine in accordance with rules of court.

(2) Paragraph (1) does not prejudice the discretion conferred on the High Court by Article 5 or the provisions of Article 10 relating to the grant of administration to a nominee of the Crown where an intestate's estate devolves on the Crown.

(3) A grant may be limited in any way the High Court thinks fit.

(4) The High Court has jurisdiction—

(a) to make a grant in respect of a deceased person notwithstanding that he left no estate in Northern Ireland;

(b) to make a *de bonis non* or other form of grant in respect of unadministered estate notwithstanding that there is no unadministered estate of the deceased person in Northern Ireland.

Discretionary power to appoint administrator in certain cases

5.—(1) Where—

(a) a person has died, and

(b) by reason of any circumstances it appears to the High Court necessary or expedient to appoint an administrator under this Article,

the High Court may grant administration of the deceased person's estate, appointing as administrator such person as the High Court in its discretion thinks fit.

(2) Administration under this Article—

(a) may be granted whether the deceased person died before or after the end of the year 1955;

(b) may be limited as the High Court thinks fit.

(3) On administration being granted under this Article no person shall be or become entitled to administer the estate of the deceased person by virtue of the chain of representation.

Administration pendente lite

6.—(1) Where any legal proceedings are pending touching the validity of the will of a deceased person, or for obtaining or revoking any grant, the High Court may grant administration of the estate of the deceased to an administrator, who shall have all the rights and powers of a general administrator, other than the right of distributing the estate of the deceased.

(2) Every person to whom administration is so granted shall be subject to the immediate control of the High Court and act under its direction.

(3) The High Court may, out of the estate of the deceased person, assign to an administrator appointed under this Article such reasonable remuneration as the High Court thinks fit.

(4) This Article does not prejudice the power of a county court judge to grant limited administration under [F1 Article 16 of the County Courts (Northern Ireland) Order 1980] (death of a person concerning whose property proceedings are pending in a county court).

F1 1980 NI 3

Administration during minority of executor

7.—(1) Where a minor is sole executor of a will, administration with the will annexed shall be granted to his guardian, or to such other person as the High Court thinks fit, until the minor attains the age of 18 years and applies for and obtains a grant of probate, and on the minor attaining that age, and not before, probate of the will may be granted to him.

(2) Where a testator by his will appoints a minor to be an executor, the appointment shall not operate to transfer any interest in the property of the deceased to the minor or to constitute him a personal representative for any purpose unless and until probate is granted to him under this Article.

Grant of special administration where personal representative is abroad

8.—(1) If at the expiration of 12 months from the death of a person any personal representative of his to whom a grant has been made is residing out of the jurisdiction of the High Court, the High Court may, on the application of any creditor or person interested in the estate of the deceased

person, grant to him in such form as the High Court thinks fit special administration of the estate of the deceased person.

(2) The High Court may, for the purposes of any legal proceedings to which the administrator under the special administration ("the special administrator") is a party, order the transfer into the**[**F2Court of Judicature**]** of any money or securities belonging to the estate of the deceased person.

(3) If the special administrator becomes aware that a personal representative capable of acting as such has returned to reside within the jurisdiction of the High Court while any legal proceedings to which the special administrator is a party are pending, he shall apply to have that personal representative made a party to the proceedings.

(4) The costs of and incidental to the special administration and any legal proceedings to which the special administrator is a party shall be paid by such person or out of such fund as the court in which the proceedings are pending may direct.

F2 Words in art. 8(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

Grant of representation to trust corporation

9.—(1) The High Court may—

(a) where a trust corporation is appointed by a will as executor, whether alone or jointly with another person, grant probate to the corporation either solely or jointly with another person, as the case may require; and

(b) grant administration to a trust corporation, either solely or jointly with another person;

and the corporation may act accordingly as executor or administrator, as the case may be.

(2) Representation shall not be granted to a nominee on behalf of a trust corporation.

(3) Any officer authorised for the purpose by a trust corporation or the directors or governing body thereof may, on behalf of the corporation,—

(a) swear affidavits, give security and do any other act or thing which the court may require with a view to the grant to the corporation of representation, or

(b) renounce the corporation's right to a grant,

and the acts of an officer so authorised shall be binding on the corporation

(4) In this Article, "trust corporation" means—

(a) a corporation appointed by the High Court in any particular case to be a trustee; or

(b) a corporation which—

(i) is constituted under the law of the United Kingdom or any part of it, or under the law of any other Member State of the European Economic Community or any part of it; and

(ii) is empowered by its constitution to undertake in Northern Ireland the business of acting as trustee under wills and settlements and as executor and administrator; and

(iii) has one or more places of business in the United Kingdom; and

(iv) is—

(aa) a company incorporated by special Act or Royal Charter, or

(bb) a company registered (with or without limited liability) in the United Kingdom under the**[**F3 Companies (Northern Ireland) Order 1986**]** or the corresponding law in Great Britain (or under any earlier corresponding Act

or law), or in another Member State of the European Economic Community, and having a capital in stock or shares for the time being of not less than £250,000 (or its equivalent in the currency of the State where the company is registered), of which not less than £100,000 (or its equivalent) has been paid up in cash, or

(cc) a company which is registered without limited liability in the United Kingdom under the**[**F3 Companies (Northern Ireland) Order 1986**]** or the corresponding law in Great Britain (or under any earlier corresponding Act or law), or in another Member State of the European Economic Community, and of which one of the members is a corporation within any of the previous provisions of this sub-paragraph; or

(c) a corporation which is constituted under the law of the United Kingdom or any part of it, or under the law of any other Member State of the European Economic Community or any part of it, and which satisfies the Lord Chief Justice—

(i) that it undertakes the administration of any charitable, ecclesiastical or public trust without remuneration, or

(ii) that by its constitution it is required to apply the whole of its net income for charitable, ecclesiastical or public purposes and is prohibited from distributing, directly or indirectly, any part thereof by way of profit,

and which is authorised by the Lord Chief Justice to act in relation to any charitable, ecclesiastical or public trust (as the case may be) as a trust corporation.

(5) This Article has effect whether the deceased person died before or after the end of the year 1955.

F3 1986 NI 9

Administration of intestates' estates devolving on the Crown

10.—(1) Where Her Majesty is entitled in right of the Crown to any estate in Northern Ireland of an intestate, the High Court shall, on application being made in that behalf, grant administration of the estate to a nominee of Her Majesty.

(2) If Her Majesty is pleased, in accordance with the Treasury Solicitor Act 1876 , by warrant under Her Royal Sign Manual to nominate the Treasury Solicitor for the purpose of a grant under paragraph (1), the nominee shall be—

(a) the Treasury Solicitor; or

(b) if the warrant so provides, some person (who may be the Crown Solicitor for Northern Ireland ("the Crown Solicitor")) nominated in that behalf by the Treasury Solicitor.

(3) Where administration is granted to the Treasury Solicitor, the Treasury Solicitor Act 1876 shall apply and sections 2, 4, 6 and 7 of that Act shall be deemed to extend to real as well as to personal estate.

(4) Where administration is granted to a person nominated by the Treasury Solicitor, that person shall, in his administration of the estate, act in accordance with any directions in writing given to him by the Treasury Solicitor.

(5) For the purposes of this Article the Crown Solicitor shall be deemed to be a corporation sole and—

(a) any nomination of him by the Treasury Solicitor shall, until revoked, apply also to his successors;