



Administration of Estates Act (Northern Ireland) 1955

1955 CHAPTER 24

An Act to make provision with respect to the devolution and distribution of the estates of deceased persons and to amend the law with respect to the representation of deceased persons, the administration of their estates and related matters. [13th December 1955]

PART I

ASSIMILATION OF REAL AND PERSONAL ESTATE FOR PURPOSES OF DEVOLUTION ON DEATH AND OF DESCENT ON INTESTACY

1 Realty to devolve and descend as personalty.

- (1) Real estate to which a deceased person was entitled for an estate or interest not ceasing on his death shall on his death, notwithstanding any testamentary disposition, devolve upon and become vested in his personal representatives from time to time as if it were personal estate vesting in them, and shall on intestacy be distributed in accordance with Part II as if it were the personal estate of an intestate who died domiciled in Northern Ireland.
- (2) Personal representatives shall be the representatives of a deceased person in regard to his real estate as well as in regard to his personal estate, and probate and letters of administration may be granted either separately in respect of real estate and in respect of personal estate, or in respect of real estate together with personal estate and may be granted in respect of real estate although there is no personal estate, or in respect of personal estate although there is no real estate so, however, that where the estate of the deceased person is known to be insolvent, the grant shall not be severed except as regards a trust estate.
- (3) Without prejudice to the succeeding provisions of this section all existing rules, modes and canons of descent and of devolution by special occupancy are hereby abolished except in so far as they may apply to the descent of an entailed estate or interest.

Changes to legislation: There are currently no known outstanding effects for the
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- (4) Dower and tenancy by the curtesy are hereby abolished.
- (5) Escheat to the Crown and escheat to a mesne lord for want of heirs are hereby abolished.
- (6) This section shall apply to any real estate over which a person exercises by will a general power of appointment, as if it were real estate vested in him.

2 Further assimilation of law respecting real and personal estates of deceased persons.

- (1) All enactments (including this Act) and rules of law relating to—
 - (a) the effect of probate or letters of administration as respects personal estate;
 - (b) the dealing with personal estate before probate or letters of administration;
 - (c) the powers, rights, duties, and liabilities of personal representatives in respect of personal estate;
 - (d) the payment of costs of administration; and
 - (e) all other matters with respect to the administration of personal estate;
 shall, so far as the same are applicable, extend and apply to real estate as if it were personal estate; and subsequent provisions of this section shall not prejudice the generality of this sub-section.
- (2) All jurisdiction of any court with respect to the appointment of administrators or otherwise with respect to the grant of probate or letters of administration as respects personal estate shall extend over, and be exercisable in relation to, real estate as if it were personal estate and the rights, as respects citations to see proceedings, of persons interested or claiming to be interested in the real estate of a deceased person shall be the same as those of persons interested or claiming to be interested in the personal estate of that deceased person.
- (3) A grant of probate or letters of administration shall, unless containing an express limitation to the contrary, have effect as well over the real as over the personal estate and the personal representatives of a deceased person shall hold his real estate as trustees for the persons by law entitled thereto.

Subs. (4) rep. by 1958 c. 10 (NI)

- (5) In the administration of the assets of a deceased person, his real estate shall be administered, subject to and in accordance with the provisions of Part IV, in the same manner and with the same incidents as if it were personal estate.

3^{F1} Vesting of estate before grant of administration.

All the estate, real as well as personal, of an intestate shall, until administration is granted in respect thereof, vest in the Probate Judge in the same manner and to the same extent as the personal estate of an intestate would, apart from this Act, have vested in such Judge.

F1 mod. 1994 c. 36

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4 Abolition of term “real representative” and construction of references to estates of deceased persons.

- (1) The term “real representative” shall cease to be used and the term “representatives” shall, unless the contrary intention appears, mean personal representatives.
- (2) References in the subsequent provisions of this Act and in any subsequent enactment to the estate of a deceased person shall, unless the contrary intention appears, include references to both the real and personal estate of that deceased person.

5 Construction of references to heirs.

- (1) The word “heir” or “heirs” used as a word of limitation in any enactment, deed or instrument passed or executed either before or after the commencement of this Act, shall have the same effect as if this Act had not passed.
- (2) The word “heir” or “heirs” used as a word of purchase in any enactment, deed or instrument passed or executed after the commencement of this Act, shall bear the same meaning as if this Act had not passed.
- (3) The word “heir” or “heirs” used as a word of purchase in any enactment, deed or instrument passed or executed after the commencement of this Act shall, unless the contrary intention appears, be construed to mean the person or persons, other than a creditor, who would be beneficially entitled under Part II to the estate of the ancestor if the ancestor had died intestate.
- (4) Subject as aforesaid, references in this Act and in any enactment, deed or instrument passed or executed either before or after the commencement of this Act to the heirs of any person, shall be construed as including references to his personal representatives.

PART II^{F2}

DISTRIBUTION ON INTESTACY

F2 1977 NI 17

6 Rules for the distribution on intestacy.

All estate to which a deceased person was entitled for an estate or interest not ceasing on his death and as to which he dies intestate after the commencement of this Act shall, after payment of all debts, duties and expenses properly payable thereout, be distributed in accordance with this Part.

[^{F3}6A Spouse^{F4} or civil partner] dying within 28 days of intestate.

Where—

- (a) the intestate dies leaving a spouse^{F4} or civil partner], but
- (b) the spouse^{F4} or civil partner] dies before the end of the period of 28 days beginning on (and including) the day on which the intestate died,

this Part shall have effect as respects the intestate as if the spouse^{F4} or civil partner] had not survived the intestate.]

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F3 1996 NI 26

F4 2004 c.33

7 **Rights of surviving spouse^{F5} or civil partner].**

- (1) The surviving spouse^{F5} or civil partner] of the intestate shall take the personal chattels.
 - (2) If an intestate dies leaving a spouse^{F5} or civil partner] and issue the surviving spouse^{F5} or civil partner] shall, in addition to the personal chattels, take—
 - (a) where the net value of the remaining estate does not exceed^{F6}£250,000], the whole of the remaining estate;
 - (b)^{F7} where the net value of the remaining estate exceeds^{F6}£250,000], the sum of^{F6}£250,000], free of all duties, charges and costs, and shall have a charge upon the remaining estate for that sum with interest thereon at the rate of four^{F8} pounds per centum per annum [^{F9} or at such other rate as the head of the Department of Finance may specify by an order made subject to affirmative resolution] from the date of the death of the intestate until the date of payment thereof, together with—
 - (i) where only one child of the intestate also survives, one-half of any residue left of the remaining estate after providing for that sum and the interest thereon;
 - (ii) where more than one child of the intestate also survives, one-third of any residue left of the remaining estate after providing for that sum and the interest thereon.
 - (3) For the purposes of the last preceding sub-section, if a child of the intestate predeceased him leaving issue who survive the intestate, the surviving spouse^{F5} or civil partner] of the intestate shall take the same share of the estate as if the child had survived the intestate.
 - (4) If an intestate dies leaving a spouse^{F5} or civil partner] and no issue, but leaving parents or brothers or sisters or issue of deceased brothers or sisters, the spouse^{F5} or civil partner] shall, in addition to the personal chattels, take—
 - (a) where the net value of the remaining estate does not exceed^{F10}£450,000], the whole of the remaining estate;
 - (b) where the net value of the remaining estate exceeds^{F10}£450,000]
 - (i)^{F7} the sum of^{F10}£450,000], free of all duties, charges and costs, and shall have a charge upon the remaining estate for that sum with interest thereon at the rate of four^{F8} pounds per centum per annum [^{F9} or at such other rate as the head of the Department of Finance may specify by an order made subject to affirmative resolution] from the date of the death of the intestate until the date of payment thereof together with—
 - (ii) one-half of any residue left of the remaining estate after providing for that sum and the interest thereon.
- ^{F11}(4A) The Minister of Home Affairs^{F12} may from time to time by order, subject to affirmative resolution, substitute larger amounts for the amounts mentioned in sub-sections (2) and (4) of this section but the amounts substituted in sub-section (2)(b) by any such order shall be the same as the amount substituted by that order in sub-section (2)(a) and the amounts substituted in sub-section (4)(b) by any such order shall be the same as the amount substituted by that order in sub-section (4)(a).

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- (4B) Any order under sub-section (4A) shall have effect, and shall supersede any previous order, in relation to the estate of any person dying after the coming into force of the order.]
- (5) If an intestate dies leaving a spouse^{F5} or civil partner] but neither issue nor parents nor brothers nor sisters nor issue of deceased brothers or sisters, the spouse^{F5} or civil partner] shall take the whole of his estate.
- (6) In this section references to the net value of the estate, or any part of the estate, of an intestate are references to the estimated market value thereof as at the date of the death of the intestate, after payment of all duties and charges thereon and of debts, funeral expenses and expenses of administration.
- (7) Nothing in this section shall prejudice or affect the operation of section fifteen^{F13} of the Matrimonial Causes Act (Northern Ireland), 1939^{F14}... with respect to the property of a wife who has been judicially separated from her husband^{F5}, or of section 180 of the Civil Partnership Act 2004^{F15}, or of Article 20(2) of the Matrimonial Causes (Northern Ireland) Order 1978] .

- F5** 2004 c.33
- F6** Words in s. 7(2) substituted (1.1.2008) by [Administration of Estates \(Rights of Surviving Spouse or Civil Partner\) Order \(Northern Ireland\) 2007 \(S.R. 2007/452\)](#), **art. 2(a)**
- F7** mod. by SR 1985/8
- F8** Increased to 7 per cent., SR 1980/90
- F9** 1979 NI 14
- F10** Words in s. 7(4) substituted (1.1.2008) by [Administration of Estates \(Rights of Surviving Spouse or Civil Partner\) Order \(Northern Ireland\) 2007 \(S.R. 2007/452\)](#), **art. 2(b)**
- F11** 1969 c. 38 (NI)
- F12** Functions transf. to Head of D/Fin., SRO (NI) 1973/504
- F13** Rep. (with saving for deaths before 18.4.1979), 1978 NI 15
- F14** Words in s. 7(7) omitted (13.1.2020) by virtue of [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **126(2)(a)** (with regs. 6-9, 126(3))
- F15** Words in s. 7(7) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **126(2)(b)** (with regs. 6-9, 126(3))

8 Rights of issue.

If an intestate dies leaving issue his estate shall, subject to the rights of the surviving spouse^{F16} or civil partner], if any, be distributed *per stirpes* among such issue.

- F16** 2004 c.33

9 Rights of parents.

If an intestate dies leaving no issue, his estate shall, subject to the rights of the surviving spouse^{F17} or civil partner], if any, be distributed between his parents in equal shares if both survive the intestate, but if only one parent survives the intestate, such surviving parent shall, subject as aforesaid, take the whole estate.