



# Administration of Estates Act (Northern Ireland) 1955

## 1955 CHAPTER 24

### PART II <sup>F1</sup>

#### DISTRIBUTION ON INTESTACY

**F1** [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.

#### **[<sup>F2</sup>6A Spouse<sup>F3</sup> or civil partner] dying within 28 days of intestate.**

Where—

- (a) the intestate dies leaving a spouse<sup>F3</sup> or civil partner], but
- (b) the spouse<sup>F3</sup> 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<sup>F3</sup> or civil partner] had not survived the intestate.]

**F2** [1996 NI 26](#)

**F3** [2004 c.33](#)

#### **7 Rights of surviving spouse<sup>F4</sup> or civil partner].**

- (1) The surviving spouse<sup>F4</sup> or civil partner] of the intestate shall take the personal chattels.

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*Changes to legislation: There are currently no known outstanding effects for the Administration of Estates Act (Northern Ireland) 1955, PART II. (See end of Document for details)*

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- (2) If an intestate dies leaving a spouse<sup>[F4]</sup> or civil partner] and issue the surviving spouse<sup>[F4]</sup> or civil partner] shall, in addition to the personal chattels, take—
- (a) where the net value of the remaining estate does not exceed<sup>[F5]</sup> £250,000], the whole of the remaining estate;
  - (b)<sup>F6</sup> where the net value of the remaining estate exceeds<sup>[F5]</sup> £250,000], the sum of<sup>[F5]</sup> £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<sup>F7</sup> pounds per centum per annum [<sup>F8</sup> 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<sup>[F4]</sup> 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<sup>[F4]</sup> or civil partner] and no issue, but leaving parents or brothers or sisters or issue of deceased brothers or sisters, the spouse<sup>[F4]</sup> or civil partner] shall, in addition to the personal chattels, take—
- (a) where the net value of the remaining estate does not exceed<sup>[F9]</sup> £450,000], the whole of the remaining estate;
  - (b) where the net value of the remaining estate exceeds<sup>[F9]</sup> £450,000]
    - (i)<sup>F6</sup> the sum of<sup>[F9]</sup> £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<sup>F7</sup> pounds per centum per annum [<sup>F8</sup> 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.
- <sup>F10</sup>(4A) The Minister of Home Affairs<sup>F11</sup> 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).
- (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.]

**Changes to legislation:** There are currently no known outstanding effects for the Administration of Estates Act (Northern Ireland) 1955, PART II. (See end of Document for details)

- (5) If an intestate dies leaving a spouse<sup>F4</sup> or civil partner] but neither issue nor parents nor brothers nor sisters nor issue of deceased brothers or sisters, the spouse<sup>F4</sup> 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<sup>F12</sup> of the Matrimonial Causes Act (Northern Ireland), 1939<sup>F13</sup> ... with respect to the property of a wife who has been judicially separated from her husband<sup>F4</sup>, or of section 180 of the Civil Partnership Act 2004<sup>F14</sup>, or of Article 20(2) of the Matrimonial Causes (Northern Ireland) Order 1978] .

- F4** 2004 c.33
- F5** 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)**
- F6** mod. by SR 1985/8
- F7** Increased to 7 per cent., SR 1980/90
- F8** 1979 NI 14
- F9** 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)**
- F10** 1969 c. 38 (NI)
- F11** Functions transf. to Head of D/Fin., SRO (NI) 1973/504
- F12** Rep. (with saving for deaths before 18.4.1979), 1978 NI 15
- F13** 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))
- F14** 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<sup>F15</sup> or civil partner], if any, be distributed *per stirpes* among such issue.

- F15** 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<sup>F16</sup> 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.

- F16** 2004 c.33

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## 10 Rights of brothers and sisters and their issue.

- (1) If an intestate dies leaving neither issue nor parent, his estate shall, subject to the right of the surviving spouse<sup>F17</sup> or civil partner], if any, be distributed between his brothers and sisters in equal shares, and if any brother or sister predeceases the intestate the surviving issue of the deceased brother or sister shall take *per stirpes* the share that brother or sister would have taken if he or she had survived the intestate.
- (2) If an intestate dies leaving neither issue nor parent nor brother nor sister, his estate shall, subject to the rights of the surviving spouse<sup>F17</sup> or civil partner], if any, be distributed *per stirpes* among the issue of his brothers and sisters.

F17 2004 c.33

## 11 Rights of next-of-kin.

- (1) If an intestate dies leaving neither spouse<sup>F18</sup> nor civil partner] nor issue nor parent nor brother nor sister nor issue of any deceased brother or sister, his estate shall, subject to the succeeding provisions of this Part, be distributed in equal shares among his next-of-kin.
- (2) Where any uncle or aunt of the intestate (being brother or sister of a parent of the intestate) who would have been, or been included among, such next-of-kin if he or she had survived the intestate has predeceased the intestate leaving issue who survive the intestate such issue shall represent that uncle or aunt and shall by such representation take *per stirpes* the share that uncle or aunt would have taken as next-of-kin if he or she had survived the intestate.
- (3) Representation of next-of-kin shall not be admitted amongst collaterals except in the case of issue of brothers and sisters of the intestate and issue of uncles and aunts of the intestate.

F18 2004 c.33

## 12 Ascertainment of next-of-kin.

- (1) Subject to the rights of representation mentioned in sub-section (2) of the last preceding section, the person or persons who at the date of the death of the intestate stand nearest in blood relationship to him shall be taken to be his next-of-kin.
- (2) Degrees of blood relationship of a direct lineal ancestor shall be computed by counting upwards from the intestate to that ancestor and degrees of blood relationship of any other relative shall be ascertained by counting upwards from the intestate to the nearest ancestor common to the intestate and that relative, and then downward from that ancestor to the relative, but, where a direct lineal ancestor and any other relative are so ascertained to be within the same degree of blood relationship to the intestate, the other relative shall be preferred to the exclusion of the direct lineal ancestor.

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**13 Saving for children begotten but not born.**

Descendants and relatives of the intestate begotten before his death but born thereafter, shall inherit as if they had been born in the lifetime of the intestate and had survived him.

**14 Half-blood.**

Relatives of the half-blood shall be treated as, and shall inherit equally with, relatives of the whole blood in the same degree.

**15 Operation of provisions for distribution or taking per stirpes.**

Where under any provision of this Act an intestate's estate or any share therein is to be distributed *per stirpes* among, or taken *per stirpes* by, the issue or surviving issue of any person, any issue more remote than a child of that person shall take through all degrees, according to their stocks, in equal shares if more than one, the share which the parent of such issue would have taken if living at the death of the intestate, and no issue of that person shall take if the parent of such issue is living at the death of the intestate and so capable of taking.

**16 Rights of the Crown.**

(1 <sup>F19</sup> In default of any person taking the estate of an intestate under the foregoing provisions of this Part, that estate shall pass to the Crown as *bona vacantia*.

*Subs. (2) rep. by 1997 NI 8*

**F19** Mod., 1979 NI 8

*S. 17 rep. by 1996 NI 26*

**18 Partial intestacy.**

Where the will of a testator effectively disposes of part only of his estate, then, unless it appears by the will that his personal representatives are intended to take beneficially the remainder of his estate, the personal representatives shall, subject to their powers and rights for the purposes of administration, hold the remainder of his estate upon trust for the persons who would have been entitled thereto under this Part if the testator had died intestate and left no other estate.

**19 Construction of documents.**

(1 <sup>F20</sup> References to any Statutes of Distribution in an instrument *inter vivos* made, or in a will coming into operation, after the commencement of this Act, shall, unless the contrary thereby appears, be construed as references to this Part; and references in such an instrument or will to statutory next-of-kin shall, unless the contrary thereby appears, be construed as referring to the persons who would take beneficially on an intestacy under the foregoing provisions of this Part.

(2) Trusts declared by reference to the Statutes of Distribution in an instrument *inter vivos* made, or in a will coming into operation, before the commencement of this Act shall, unless the contrary thereby appears, be construed as referring to the enactments (other

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than the Intestates' Estates Act, 1890 ) relating to the distribution of effects of intestates which were in force immediately before the commencement of this Act.

**F20** [1977 NI 17](#)

*Part III (ss. 20-28) rep. by 1971 c. 25; 1971 c. 31 (NI); 1979 NI 14*

**Changes to legislation:**

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