



Law Reform (Succession) Act 1995

1995 CHAPTER 41

An Act to amend the law relating to the distribution of the estates of deceased persons and to make provision about the effect of the dissolution or annulment of marriages on wills and appointments of guardians. [8th November 1995]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Distribution of estates

1 Intestacy and partial intestacy

(1) In the Administration of Estates Act 1925 (“the 1925 Act”), in section 46 (succession on intestacy) the following subsection shall be inserted after subsection (2)—

“(2A) Where the intestate's husband or wife survived the intestate but died before the end of the period of 28 days beginning with the day on which the intestate died, this section shall have effect as respects the intestate as if the husband or wife had not survived the intestate.”

(2) The following provisions of the 1925 Act (which require certain payments made by an intestate, and certain interests acquired under a will of an intestate, to be brought into account) shall cease to have effect—

- (a) in section 47 (statutory trusts in favour of issue and other relatives of intestate), subsection (1)(iii);
- (b) in section 49 (partial intestacy), in subsection (1) paragraphs (aa) and (a), and subsections (2) and (3).

(3) Subsections (1) and (2) above have effect as respects an intestate dying on or after 1st January 1996.

(4) In section 50 of the 1925 Act (construction of documents), the references in subsection (1) to Part IV of that Act and to the foregoing provisions of that Part shall,

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in relation to an instrument inter vivos made or a will or codicil coming into operation on or after 1st January 1996 (but not in relation to instruments inter vivos made or wills or codicils coming into operation earlier), be construed as including references to this section.

- (5) In this section “intestate” shall be construed in accordance with section 55(1)(vi) of the 1925 Act.

2 Application for financial provision by person who lived with deceased as husband or wife

- (1) The Inheritance (Provision for Family and Dependants) Act 1975 shall be amended as follows.

- (2) In section 1 (application for financial provision from deceased’s estate), in subsection (1) (persons who may apply) the following paragraph shall be inserted after paragraph (b)—

“(ba) any person (not being a person included in paragraph (a) or (b) above) to whom subsection (1A) below applies;”.

- (3) In that section, the following subsection shall be inserted after subsection (1)—

“(1A) This subsection applies to a person if the deceased died on or after 1st January 1996 and, during the whole of the period of two years ending immediately before the date when the deceased died, the person was living—

- (a) in the same household as the deceased, and
- (b) as the husband or wife of the deceased.”

- (4) In section 3 (matters to which court is to have regard in exercising its powers to make orders), the following subsection shall be inserted after subsection (2)—

“(2A) Without prejudice to the generality of paragraph (g) of subsection (1) above, where an application for an order under section 2 of this Act is made by virtue of section 1(1)(ba) of this Act, the court shall, in addition to the matters specifically mentioned in paragraphs (a) to (f) of that subsection, have regard to—

- (a) the age of the applicant and the length of the period during which the applicant lived as the husband or wife of the deceased and in the same household as the deceased;
- (b) the contribution made by the applicant to the welfare of the family of the deceased, including any contribution made by looking after the home or caring for the family.”

Effect of dissolution or annulment of marriage

3 Effect of dissolution or annulment of marriage on will

- (1) In section 18A of the Wills Act 1837 (effect of dissolution or annulment of marriage on will), in subsection (1) for paragraphs (a) and (b) (abrogation of appointment of spouse as executor and lapse of devise or bequest to spouse) there shall be substituted—

“(a) provisions of the will appointing executors or trustees or conferring a power of appointment, if they appoint or confer the power on the

former spouse, shall take effect as if the former spouse had died on the date on which the marriage is dissolved or annulled, and

- (b) any property which, or an interest in which, is devised or bequeathed to the former spouse shall pass as if the former spouse had died on that date.”.

- (2) Subsection (1) above has effect as respects a will made by a person dying on or after 1st January 1996 (regardless of the date of the will and the date of the dissolution or annulment).

4 Effect of dissolution or annulment of marriage on appointment of guardian

- (1) In section 6 of the Children Act 1989 (revocation of appointment of guardian) the following subsection shall be inserted after subsection (3)—

“(3A) An appointment under section 5(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person appointed is the spouse of the person who made the appointment and either—

- (a) a decree of a court of civil jurisdiction in England and Wales dissolves or annuls the marriage, or
- (b) the marriage is dissolved or annulled and the divorce or annulment is entitled to recognition in England and Wales by virtue of Part II of the Family Law Act 1986,

unless a contrary intention appears by the appointment.”

- (2) Subsection (1) above has effect as respects an appointment made by a person dying on or after 1st January 1996 (regardless of the date of the appointment and the date of the dissolution or annulment).

Supplemental

5 Repeals

The enactments mentioned in the Schedule to this Act are repealed in accordance with that Schedule.

6 Citation and extent

- (1) This Act may be cited as the Law Reform (Succession) Act 1995.
- (2) This Act extends to England and Wales only.

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SCHEDULE

Section 5.

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
7 Will. 4 & 1 Vict. c. 26.	The Wills Act 1837.	Section 18A(3).
15 & 16 Geo. 5 c. 23.	The Administration of Estates Act 1925.	Section 47(1)(iii). In section 49, in subsection (1) paragraphs (aa) and (a), and subsections (2) and (3).
15 & 16 Geo. 6 & 1 Eliz. 2 c. 64.	The Intestates' Estates Act 1952.	Section 3(2).

The repeal in the Wills Act 1837 has effect as respects a will made by a person dying on or after 1st January 1996 and the other repeals have effect as respects an intestate (within the meaning of section 1) dying on or after that date.
