



Administration of Estates Act 1925

1925 CHAPTER 23 15 and 16 Geo 5

PART II

EXECUTORS AND ADMINISTRATORS

General Provisions

4^{F1}

Textual Amendments

F1 Ss. 4, 10–14, 16, 18–20 repealed by [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 226, [Sch. 6](#)

5 Cesser of right of executor to prove.

Where a person appointed executor by a will—

- (i) survives the testator but dies without having taken out probate of the will; or
- (ii) is cited to take out probate of the will and does not appear to the citation; or
- (iii) renounces probate of the will;

his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his real and personal estate shall devolve and be committed in like manner as if that person had not been appointed executor.

6 Withdrawal of renunciation.

- (1) Where an executor who has renounced probate has been permitted, whether before or after the commencement of this Act, to withdraw the renunciation and prove the will, the probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other personal representative who has previously proved the will or taken out letters of

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administration, and a memorandum of the subsequent probate shall be endorsed on the original probate or letters of administration.

- (2) This section applies whether the testator died before or after the commencement of this Act.

7 **Executor of executor represents original testator.**

- (1) An executor of a sole or last surviving executor of a testator is the executor of that testator.

This provision shall not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, it shall cease to apply on such probate being granted.

- (2) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.

- (3) The chain of such representation is broken by—

- (a) an intestacy; or
- (b) the failure of a testator to appoint an executor; or
- (c) the failure to obtain probate of a will;

but is not broken by a temporary grant of administration if probate is subsequently granted.

- (4) Every person in the chain of representation to a testator—

- (a) has the same rights in respect of the real and personal estate of that testator as the original executor would have had if living; and
- (b) is, to the extent to which the estate whether real or personal of that testator has come to his hands, answerable as if he were an original executor.

Modifications etc. (not altering text)

C1 S. 7 excluded by [Administration of Estates Act 1971 \(c. 25\), s. 1\(3\)](#)

8 **Right of proving executors to exercise powers.**

- (1) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the others or other to prove, all the powers which are by law conferred on the personal representative may be exercised by the proving executor or executors for the time being and shall be as effectual as if all the persons named as executors had concurred therein.

- (2) This section applies whether the testator died before or after the commencement of this Act.

[F29] **Vesting of estate in Public Trustee where intestacy or lack of executors.**

- (1) Where a person dies intestate, his real and personal estate shall vest in the Public Trustee until the grant of administration.

- (2) Where a testator dies and—

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- (a) at the time of his death there is no executor with power to obtain probate of the will, or
 - (b) at any time before probate of the will is granted there ceases to be any executor with power to obtain probate,
- the real and personal estate of which he disposes by the will shall vest in the Public Trustee until the grant of representation.
- (3) The vesting of real or personal estate in the Public Trustee by virtue of this section does not confer on him any beneficial interest in, or impose on him any duty, obligation or liability in respect of, the property.]

Textual Amendments

F2 S. 9 substituted (1.7.1995) by 1994 c. 36, s. 14(1) (with s. 20); S.I. 1995/1317, art. 2

Modifications etc. (not altering text)

C2 S. 9 restricted (1.7.1995) by 1974 c.39, s. 176(7) (as substituted (1.7.1995) by 1994 c. 36, s. 21(1), Sch. 1 para. 6 (with s. 20); S.I. 1995/1317, art. 2)

C3 S. 9(1)(2) applied (1.7.1995) by 1994 c. 36, s. 14(4) (with s. 20); S.I. 1995/1317, art. 2

10— F3
14.

Textual Amendments

F3 Ss. 4, 10–14, 16, 18–20 repealed by Supreme Court of Judicature (Consolidation) Act 1925 (c. 49), s. 226, Sch. 6

15 Executor not to act while administration is in force.

Where administration has been granted in respect of any real or personal estate of a deceased person, no person shall have power to bring any action or otherwise act as executor of the deceased person in respect of the estate comprised in or affected by the grant until the grant has been recalled or revoked.

16 F4

Textual Amendments

F4 Ss. 4, 10–14, 16, 18–20 repealed by Supreme Court of Judicature (Consolidation) Act 1925 (c. 49), s. 226, Sch. 6

17 Continuance of legal proceedings after revocation of temporary administration.

[^{F5}(1) If, while any legal proceeding is pending in any court by or against an administrator to whom a temporary administration has been granted, that administration is revoked, that court may order that the proceeding be continued by or against the new personal

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representative in like manner as if the same had been originally commenced by or against him, but subject to such conditions and variations, if any, as that court directs.]

[^{F5}(2) The county court has jurisdiction under this section where the proceedings are pending in that court.]

Textual Amendments

F5 S. 17 renumbered as subsection (1) of that section and subsection (2) added by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(1), [Sch. 2 Pt. III para. 11\(1\)\(2\)](#)

Modifications etc. (not altering text)

C4 Ss. 17(2), 38(4), 41(1A), 43(4) modified by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 24(2)(d)

18— ^{F6}
20.

Textual Amendments

F6 Ss. 4, 10–14, 16, 18–20 repealed by [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 226, [Sch. 6](#)

21 Rights and liabilities of administrator.

Every person to whom administration of the real and personal estate of a deceased person is granted, shall, subject to the limitations contained in the grant, have the same rights and liabilities and be accountable in like manner as if he were the executor of the deceased.

[^{F7}21A Debtor who becomes creditor’s executor by representation or administrator to account for debt to estate.

- (1) Subject to subsection (2) of this section, where a debtor becomes his deceased creditor’s executor by representation or administrator—
 - (a) his debt shall thereupon be extinguished; but
 - (b) he shall be accountable for the amount of the debt as part of the creditor’s estate in any case where he would be so accountable if he had been appointed as an executor by the creditor’s will.
- (2) Subsection (1) of this section does not apply where the debtor’s authority to act as executor or administrator is limited to part only of the creditor’s estate which does not include the debt; and a debtor whose debt is extinguished by virtue of paragraph (a) shall not be accountable for its amount by virtue of paragraph (b) of that subsection in any case where the debt was barred by the Limitation Act 1939 before he became the creditor’s executor or administrator.
- (3) In this section “debt” includes any liability, and “debtor” and “creditor” shall be construed accordingly.]

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Textual Amendments

F7 S. 21A added by [Limitation Amendment Act 1980 \(c. 24, SIF 79\)](#), **s. 10**

Modifications etc. (not altering text)

C5 S. 21A extended by [Limitation Act 1980 \(c. 58, SIF 79\)](#), s. 40(2), **Sch. 3 para. 2**

Changes to legislation:

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