



# Debts (Deceased Servicemen etc) Act 1893

1893 CHAPTER 5 56 and 57 Vict

## *Disposal of Surplus and Residue*

### **7 Disposal of surplus by paymaster.**

The paymaster shall pay the surplus in the prescribed manner, and subject to the prescribed provisions and exceptions, as follows:

- (1) If out of the United Kingdom he may pay thereout any expenses which under the prescribed regulations are chargeable against the surplus, and any debts which are legally payable out of the personal estate of the deceased;
- (2) If he knows of a representative of the deceased in the same part of Her Majesty's dominions, he shall pay the surplus to that representative;
- (3) If he does not know of such a representative as above mentioned, and the amount does not exceed [<sup>F1</sup>£5,000], he may pay or apply all or any part thereof to or for the benefit of such persons in the same part of Her Majesty's dominions as he knows of and appear to be beneficially entitled to the personal estate of the deceased, or to or for the benefit of any of such persons;
- (4) He shall remit the surplus or so much thereof as is not paid or applied in pursuance of this section to the Secretary of State.

#### **Textual Amendments**

- F1** Figure substituted by virtue of [Administration of Estates \(Small Payments\) Act 1965 \(c. 32, SIF 116:1\)](#), s. 1(1), [Sch. 1 Pt. I](#) and [S.I. 1984/539](#), [art. 2\(a\)](#)

#### **Modifications etc. (not altering text)**

- C1** Power to amend s. 7 given by [Administration of Estates \(Small Payments\) Act 1965 \(c. 32\)](#), [s. 6](#)

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*Changes to legislation: There are currently no known outstanding effects for the Debts (Deceased Servicemen etc) Act 1893, Cross Heading: Disposal of Surplus and Residue. (See end of Document for details)*

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## 8 Disposal of residue by Secretary of State.

The Secretary of State, on being informed of the death of a person subject to [F<sup>2</sup>service law], shall proceed with all reasonable speed as follows:

- (1) He shall cause to be ascertained the total amount to the credit of the deceased, including any surplus or part of a surplus remitted by a paymaster as mentioned in this Act, and all arrears of pay, batta, grants, and other allowances in the nature thereof; which total amount so ascertained is in this Act referred to as the residue;
- (2) If he has notice of a representative of the deceased, he shall pay the residue to that representative;
- (3) He may, and if it so prescribed shall, before such payment, publish the prescribed notice stating the amount of the residue and such other particulars respecting the deceased and his property as may seem fit, and also the mode in which any application respecting the residue is to be made to the Secretary of State. Provided that the Secretary of State may pay out of any money in his hands to the credit of the deceased any preferential charges appearing to him to have been left unpaid by the committee of adjustment.

### Textual Amendments

- F2** Words in Act substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 6](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

## 9 Disposal by Secretary of State of residue where residue does not exceed one hundred pounds, and no representation.

Where the residue does not exceed [F<sup>3</sup>£5,000], the Secretary of State may, if he think fit, require representation to be taken out; but if he does not, and has no notice of a representative of the deceased, then, after the expiration of the prescribed time and the publication of the prescribed notice (if any), the residue shall be disposed of as follows:

- (1) The Secretary of State may, if he thinks fit, pay or apply the residue or any part thereof, in accordance with the prescribed regulations to or for the benefit of any of the persons appearing to be beneficially entitled to the personal estate of the deceased, or any of them, and may for that purpose invest the same by deposit in a . . . F<sup>4</sup> savings bank or otherwise, and, if necessary, in the name or names of a trustee or trustees for any such person.
- (2) Any part thereof remaining in the hands of the Secretary of State, and not irrevocably appropriated, shall be applied in paying any debt of the deceased which—
  - (a) accrued due within three years before the death; and
  - (b) is claimed from the Secretary of State within two years after the death; and
  - (c) is proved by the claimant to the satisfaction of the Secretary of State.
- (3) Except as above in this section provided, a person shall not be entitled to obtain payment out of any residue in the hands of the Secretary of State of any sum due from the deceased.

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**Changes to legislation:** There are currently no known outstanding effects for the Debts (Deceased Servicemen etc) Act 1893, Cross Heading: Disposal of Surplus and Residue. (See end of Document for details)

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**Textual Amendments**

- F3** Figure substituted by virtue of [Administration of Estates \(Small Payments\) Act 1965 \(c. 32, SIF 116:1\)](#), s. 1(1), [Sch. 1 Pt. I](#) and [S.I. 1984/539](#), [art. 2\(a\)](#)
- F4** Words repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. XIII](#)

**Modifications etc. (not altering text)**

- C2** Power to amend s. 9 given by [Administration of Estates \(Small Payments\) Act 1965 \(c. 32\)](#), [s. 6](#)

**10 Application of residue undisposed of.**

- (1) Where any residue or any part thereof remains undisposed of and unappropriated, the prescribed notice thereof shall be published, and during six years next after the publication of that notice the like notice with any necessary modifications shall be annually published.
- (2) So much of the residue as remains undisposed of and unappropriated for six months after the publication of the last of such notices shall, together with any income or accumulations of income accrued therefrom, be applied in the prescribed manner in or towards the creation or maintenance of such compassionate or other fund for the benefit of<sup>F5</sup>widows, surviving civil partners] and children, or other near relatives, of soldiers dying on service, or within six months after discharge, as may be prescribed.
- (3) Provided that the application under this section of any residue, or part of a residue, shall not bar any claim of any person to the same, or any part thereof.

**Textual Amendments**

- F5** Words in s. 10(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(a), [Sch. 26 para. 6](#); [S.I. 2005/3175](#), art. 2(1), Sch. 1

**Modifications etc. (not altering text)**

- C3** S. 10(2) extended by [Royal Patriotic Fund Corporation Act 1950 \(c. 10\)](#), [s. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Debts (Deceased Servicemen etc) Act 1893, Cross Heading: Disposal of Surplus and Residue.