



# Inheritance and Trustees' Powers Act 2014

## 2014 CHAPTER 16

### 1 Intestacy: surviving spouse or civil partner

- (1) Section 46 of the Administration of Estates Act 1925 (succession to real and personal estate on intestacy) is amended as follows.
- (2) For the Table in paragraph (i) of subsection (1) substitute—

“TABLE

(1) If the intestate leaves no issue:	the residuary estate shall be held in trust for the surviving spouse or civil partner absolutely.
(2) If the intestate leaves issue:	<p>(A) the surviving spouse or civil partner shall take the personal chattels absolutely;</p> <p>(B) the residuary estate of the intestate (other than the personal chattels) shall stand charged with the payment of a fixed net sum, free of death duties and costs, to the surviving spouse or civil partner, together with simple interest on it from the date of the death at the rate provided for by subsection (1A) until paid or appropriated; and</p> <p>(C) subject to providing for the sum and interest referred to in paragraph (B), the residuary estate (other than the personal chattels) shall be held—</p>

The amount of the fixed net sum referred to in paragraph (B) of case (2) of this Table is to be determined in accordance with Schedule 1A.

- (a) as to one half, in trust for the surviving spouse or civil partner absolutely, and
- (b) as to the other half, on the statutory trusts for the issue of the intestate.”

The amount of the fixed net sum referred to in paragraph (B) of case (2) of this Table is to be determined in accordance with Schedule 1A.

(3) For subsection (1A) substitute—

“(1A) The interest rate referred to in paragraph (B) of case (2) of the Table in subsection (1)(i) is the Bank of England rate that had effect at the end of the day on which the intestate died.”

(4) After subsection (4) insert—

“(5) In subsection (1A) “Bank of England rate” means—

- (a) the rate announced by the Monetary Policy Committee of the Bank of England as the official bank rate, or
- (b) where an order under section 19 of the Bank of England Act 1998 (reserve powers) is in force, any equivalent rate determined by the Treasury under that section.

(6) The Lord Chancellor may by order made by statutory instrument amend the definition of “Bank of England rate” in subsection (5) (but this subsection does not affect the generality of subsection (7)(b)).

(7) The Lord Chancellor may by order made by statutory instrument—

- (a) amend subsection (1A) so as to substitute a different interest rate (however specified or identified) for the interest rate for the time being provided for by that subsection;
- (b) make any amendments of, or repeals in, this section that may be consequential on or incidental to any amendment made by virtue of paragraph (a).

(8) A statutory instrument containing an order under subsection (6) is subject to annulment pursuant to a resolution of either House of Parliament.

(9) A statutory instrument containing an order under subsection (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

## 2 The fixed net sum

(1) In the Administration of Estates Act 1925, after the First Schedule insert the Schedule set out in Schedule 1 to this Act (which provides for the determination of the fixed net sum).

(2) The Family Provision Act 1966 is repealed.

### **3 Definition of “personal chattels”**

(1) For paragraph (x) of section 55(1) of the Administration of Estates Act 1925 (definitions) substitute—

“(x) Personal chattels” means tangible movable property, other than any such property which—  
consists of money or securities for money, or  
was used at the death of the intestate solely or mainly for business purposes, or  
was held at the death of the intestate solely as an investment.”.

(2) If a will or codicil containing a reference to personal chattels defined (in whatever form of words) by reference to section 55(1)(x) of the Administration of Estates Act 1925 was executed before the coming into force of subsection (1), then unless the contrary intention appears subsection (1) is to be disregarded in interpreting the reference to personal chattels.

### **4 Adoption and contingent interests**

(1) In section 69 of the Adoption and Children Act 2002 (rules of interpretation for instruments concerning property), in subsection (4)—

- (a) omit “or” after paragraph (a), and
- (b) after paragraph (b) insert “, or
- (c) any contingent interest (other than a contingent interest in remainder) which the adopted person has immediately before the adoption in the estate of a deceased parent, whether testate or intestate.”

(2) The amendments made by subsection (1) have effect only in relation to adoptions whose date is the day this section comes into force or later.

### **5 Presumption of prior death**

In section 18 of the Family Law Reform Act 1987 (succession on intestacy), after subsection (2) insert—

“(2ZA) Subsection (2) does not apply if a person is recorded as the intestate’s father, or as a parent (other than the mother) of the intestate—  
(a) in a register of births kept (or having effect as if kept) under the Births and Deaths Registration Act 1953, or  
(b) in a record of a birth included in an index kept under section 30(1) of that Act (indexes relating to certain other registers etc).”

### **6 Amendments of Inheritance (Provision for Family and Dependents) Act 1975**

Schedule 2 amends the Inheritance (Provision for Family and Dependents) Act 1975.

### **7 Date when representation is first taken out**

Schedule 3 amends enactments relating to the determination, for various purposes, of the date on which representation with respect to the estate of a deceased person is first taken out.

**8 Power to apply income for maintenance**

In section 31 of the Trustee Act 1925 (power to apply income for maintenance and to accumulate surplus income during a minority), in subsection (1)—

- (a) in paragraph (i) for “as may, in all the circumstances, be reasonable,” substitute “as the trustees may think fit,” and
- (b) omit the words from “Provided that” to the end.

**9 Power of advancement**

- (1) Section 32 of the Trustee Act 1925 (power of advancement) is amended as follows.
- (2) In subsection (1), in the words before the proviso—
  - (a) after “subject to a trust,” insert “or transfer or apply any other property forming part of the capital of the trust property,” and
  - (b) after “payment” insert “, transfer”.
- (3) In subsection (1), in paragraph (a) of the proviso—
  - (a) for the words from the beginning to “amount” substitute “property (including any money) so paid, transferred or applied for the advancement or benefit of any person must not, altogether, represent more than”, and
  - (b) omit “one-half of”.
- (4) In paragraph (b) of that proviso for “the money so paid or applied” substitute “the money or other property so paid, transferred or applied”.
- (5) In paragraph (c) of that proviso—
  - (a) after “payment” (in both places) insert “, transfer”, and
  - (b) for “paid” substitute “or other property paid, transferred”.
- (6) After subsection (1), insert—
 

“(1A) In exercise of the foregoing power trustees may pay, transfer or apply money or other property on the basis (express or implied) that it shall be treated as a proportionate part of the capital out of which it was paid, transferred or applied, for the purpose of bringing it into account in accordance with proviso (b) to subsection (1) of this section.”

**10 Application of sections 8 and 9**

- (1) Section 8 applies in accordance with subsections (4) and (5).
- (2) Section 9, apart from subsection (3)(b), applies in relation to trusts whenever created or arising.
- (3) Section 9(3)(b) applies in accordance with subsections (4) and (5).
- (4) Subject to subsection (5), the provisions mentioned in subsections (1) and (3) apply only in relation to trusts created or arising after the coming into force of those provisions.
- (5) Those provisions also apply in relation to an interest under a trust (not falling within subsection (4)) if the interest is created or arises as a result of the exercise, after the coming into force of those provisions, of any power.

## **11 Minor and consequential amendments**

Schedule 4 makes minor and consequential amendments.

## **12 Short title, commencement, application and extent**

- (1) This Act may be cited as the Inheritance and Trustees' Powers Act 2014.
- (2) This section comes into force on the day on which this Act is passed, but otherwise this Act comes into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) An order under subsection (2) may appoint different days for different purposes.
- (4) The provisions of this Act, except sections 4 and 8 to 10, apply only in relation to deaths occurring after the coming into force of the provision concerned.
- (5) Subject to subsection (6), this Act extends to England and Wales only.
- (6) The repeals made by paragraph 4 of Schedule 4 extend to the United Kingdom.