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STATUTORY INSTRUMENTS

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**1979 No. 1575**

**Administration of Estates (Northern Ireland) Order 1979**

**PART IV**

**EXECUTORS AND ADMINISTRATORS**

*Misapplication of assets*

**Liability of person wrongfully obtaining or retaining estate of deceased**

**39.**—(1) If any person, to the defrauding of creditors or without full valuable consideration, obtains, receives, administers or holds any part of the estate of a deceased person or effects the release of any debt or liability due to the estate of the deceased person, he shall be charged as executor in his own wrong to the extent of the estate received or coming to his hands, or the debt or liability released, after deducting—

- (a) any debt for valuable consideration and without fraud due to him from the deceased person at the time of his death, or, where Article 37 would have applied to him had he been a personal representative, so much of that debt as he might properly have paid to himself in accordance with that Article; and
- (b) any payment made by him which might properly be made by a personal representative.

(2) In this Article, “full valuable consideration” means such valuable consideration as amounts or approximates to the value of that for which it is given.

(3) This Article does not prejudice section 33 of the Administration of Estates Act (Northern Ireland) 1955 (protection of bona fide purchaser for value)<sup>F1</sup> or the Limitation (Northern Ireland) Order 1989].

**F1** [1994 NI 13](#)

**Liability of estate of personal representative**

**40.**—(1) Where a person (“the defaulter”) as personal representative of a deceased person wastes or converts to his own use any part of the estate of the deceased person, and dies, the defaulter’s personal representative shall to the extent of the available assets of the defaulter to be liable and chargeable in respect of that waste or conversion in the same manner as the defaulter would have been if living.

(2) In paragraph (1) “personal representative” where it first occurs includes an executor in his own wrong.

**Changes to legislation:**

There are currently no known outstanding effects for the Administration of Estates (Northern Ireland) Order 1979, Cross Heading: Misapplication of assets.