

1969. No. 28

[NC]

HIGH COURT OF JUSTICE IN NORTHERN IRELAND**QUEEN'S BENCH DIVISION (PROBATE)**

SUPPLEMENTAL DIRECTIONS, DATED THE 16TH DAY OF JANUARY 1969, OF THE PROBATE JUDGE GIVEN UNDER SECTION 20 OF THE ADMINISTRATION OF ESTATES ACT (NORTHERN IRELAND) 1955.

Whereas section twenty of the Administration of Estates Act (Northern Ireland) 1955 provides, inter alia, that the High Court of Justice in Northern Ireland shall, notwithstanding any existing enactment or rule of law to the contrary, have power to grant letters of administration (with or without will annexed) of the estate of a deceased person or of any part of such estate, and shall have a discretion as to the person to whom any such letters of administration may be granted, and that such discretion shall be exercised in accordance with any general or special directions given by the Probate Judge:

And whereas general directions were made in pursuance of said Act on the 15th day of February 1956, being those contained in Statutory Rules and Orders of Northern Ireland 1956 No. 29, and it is now expedient to make the following supplemental directions:

Now therefore, I, the Right Honourable John Clarke, Baron MacDermott, being the Probate Judge in said Act referred to, hereby give the supplemental directions, set out in the schedule hereto, as to whom letters of administration (with or without will annexed) shall be granted as respects the estates of persons dying on or after the 1st day of January 1956, that being the date on which the said Act came into operation.

Dated the 16th day of January 1969.

MacDermott.

SCHEDULE

1. These directions shall come into operation forthwith.

Grants to Trust Corporations

2.—(1) Subject to the provisions of the succeeding paragraphs, where a trust corporation applies for a grant of administration with or without will annexed (otherwise than as attorney for some person or trust corporation) there shall be lodged with the application for a grant the consents of all persons entitled to a grant and of all persons interested in the residuary or undisposed-of estate of the deceased, unless the Registrar directs that such consents, or any of them, be dispensed with on such terms (if any) as he may think fit. The consent of a person of full age shall be deemed to constitute a renunciation of his right to a grant. Where the Registrar dispenses with the consent of a person of full age the renunciation of the right of such person to a grant is implied.

(2) Where an executor who has renounced his right to probate of a will is entitled to share in the residuary or undisposed-of estate of the deceased his consent to a trust corporation obtaining a grant must be expressly given (as such consent may not be inferred from his renunciation) unless the Registrar directs that such consent be dispensed with on such terms (if any) as he may think fit.

(3) To enable a grant of representation to be made to a trust corporation (other than one appointed executor), all the executors named in the will must be cleared off e.g., by death, renunciation or citation: Provided, however, that if the only persons entitled to probate of the will as executors are under the age of 21 years, a grant of administration with will annexed may be made to a trust corporation on consents of the persons entitled to the residuary or undisposed-of estate of the deceased, unless the Registrar directs that such consents be dispensed with on such terms, if any, as he may think fit. Such a grant shall be limited until the executor or one of the executors attains the age of 21 years. Where any such infant executor is entitled to share in the residuary or undisposed-of estate, consent on his behalf may be given by his statutory, testamentary or other lawfully appointed guardian.

(4) Where all the persons entitled to a grant of administration with or without will annexed and all those interested in the residuary or undisposed-of estate of a deceased are under the age of 21 years, a grant of administration with or without will annexed may issue as of right to a trust corporation on consent of the statutory, testamentary or other already lawfully appointed guardians, but an order shall not be made by the Registrar assigning a guardian for the purpose of consenting to an application of a trust corporation for a grant, nor shall an election of a guardian by an infant be accepted for that purpose. If there are no guardians so qualified the issue of a grant to a trust corporation shall lie in the discretion of the Registrar.

Where, however, some of the persons entitled to a grant of administration with or without will annexed, or who are interested in the residuary or undisposed-of estate of a deceased are of full age (others being infants) the consents and renunciations of those of full age will be required unless the Registrar directs that any such consents or renunciations be dispensed with.

A grant to a trust corporation given under this paragraph shall be limited until one of the infants entitled to apply for a grant attains age and applies for and obtains a grant.

(5) Before the consent of any person is obtained to a grant being given to a trust corporation (other than as an attorney of an executor) it shall be the duty of the corporation concerned to bring its charges to the notice of the person whose consent is required. A statement in writing that such notice has been given and a copy of the charges referred to therein shall be filed in the Registry before issue of the grant.