



# Inheritance (Provision for Family and Dependants) Act 1975

## 1975 CHAPTER 63

### *Property available for financial provision*

#### **8 Property treated as part of “net estate”.**

- (1) Where a deceased person has in accordance with the provisions of any enactment nominated any person to receive any sum of money or other property on his death and that nomination is in force at the time of his death, that sum of money, after deducting therefrom any capital transfer tax payable in respect thereof, or that other property, to the extent of the value thereof at the date of the death of the deceased after deducting therefrom any capital transfer tax so payable, shall be treated for the purposes of this Act as part of the net estate of the deceased; but this subsection shall not render any person liable for having paid that sum or transferred that other property to the person named in the nomination in accordance with the directions given in the nomination.
- (2) Where any sum of money or other property is received by any person as a donatio mortis causa made by a deceased person, that sum of money, after deducting therefrom any capital transfer tax payable thereon, or that other property, to the extent of the value thereof at the date of the death of the deceased after deducting therefrom any capital transfer tax so payable, shall be treated for the purposes of this Act as part of the net estate of the deceased; but this subsection shall not render any person liable for having paid that sum or transferred that other property in order to give effect to that donatio mortis causa.
- (3) The amount of capital transfer tax to be deducted for the purposes of this section shall not exceed the amount of that tax which has been borne by the person nominated by the deceased or, as the case may be, the person who has received a sum of money or other property as a donatio mortis causa.

#### **9 Property held on a joint tenancy.**

- (1) Where a deceased person was immediately before his death beneficially entitled to a joint tenancy of any property, then, if <sup>F1</sup>... an application is made for an order under

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**Changes to legislation:** *Inheritance (Provision for Family and Dependants) Act 1975, Cross Heading: Property available for financial provision is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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section 2 of this Act, the court for the purpose of facilitating the making of financial provision for the applicant under this Act may order that the deceased's severable share of that property <sup>F2</sup>... shall, to such extent as appears to the court to be just in all the circumstances of the case, be treated for the purposes of this Act as part of the net estate of the deceased.

- [<sup>F3</sup>(1A) Where an order is made under subsection (1) the value of the deceased's severable share of the property concerned is taken for the purposes of this Act to be the value that the share would have had at the date of the hearing of the application for an order under section 2 had the share been severed immediately before the deceased's death, unless the court orders that the share is to be valued at a different date.]
- (2) In determining the extent to which any severable share is to be treated as part of the net estate of the deceased by virtue of an order under subsection (1) above, the court shall have regard to any capital transfer tax payable in respect of that severable share.
- (3) Where an order is made under subsection (1) above, the provisions of this section shall not render any person liable for anything done by him before the order was made.
- (4) For the avoidance of doubt it is hereby declared that for the purposes of this section there may be a joint tenancy of a chose in action.

#### Textual Amendments

- F1** Words in s. 9(1) omitted (1.10.2014) by virtue of [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 2 para. 7\(2\)\(a\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2
- F2** Words in s. 9(1) omitted (1.10.2014) by virtue of [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 2 para. 7\(2\)\(b\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2
- F3** S. 9(1A) inserted (1.10.2014) by [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 2 para. 7\(3\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2

**Changes to legislation:**

Inheritance (Provision for Family and Dependants) Act 1975, Cross Heading: Property available for financial provision is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 25 (defns. of "former wife" and "former husband") amended (prosp.) by [1996 c. 27 s. 66\(1\)Sch. 8 Pt. 1 para. 27\(8\)](#)