



Inheritance (Provision for Family and Dependants) Act 1975

1975 CHAPTER 63

Special provisions relating to cases of divorce, separation etc.

14 Provision as to cases where no financial relief was granted in divorce proceedings etc.

- (1) Where, within twelve months from the date on which a decree of divorce or nullity of marriage has been made absolute or a decree of judicial separation has been granted, a party to the marriage dies and—
 - (a) an application for a financial provision order under section 23 of the Matrimonial Causes Act 1973 or a property adjustment order under section 24 of that Act has not been made by the other party to that marriage, or
 - (b) such an application has been made but the proceedings thereon have not been determined at the time of the death of the deceased,

then, if an application for an order under section 2 of this Act is made by that other party, the court shall, notwithstanding anything in section 1 or section 3 of this Act, have power, if it thinks it just to do so, to treat that party for the purposes of that application as if the decree of divorce or nullity of marriage had not been made absolute or the decree of judicial separation had not been granted, as the case may be.

- (2) This section shall not apply in relation to a decree of judicial separation unless at the date of the death of the deceased the decree was in force and the separation was continuing.

15 Restriction imposed in divorce proceedings etc. on application under this Act

- (1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter, the court may, if the court considers it just to do so and the parties to the marriage agree, order that either party to the marriage shall not be entitled on the death of the other party to apply for an order under section 2 of this Act.

- (2) In the case of a decree of divorce or nullity of marriage an order may be made under subsection (1) above before or after the decree is made absolute, but if it is made before the decree is made absolute it shall not take effect unless the decree is made absolute.
- (3) Where an order made under subsection (1) above on the grant of a decree of divorce or nullity of marriage has come into force with respect to a party to a marriage, then, on the death of the other party to that marriage, the court shall not entertain any application for an order under section 2 of this Act made by the first-mentioned party.
- (4) Where an order made under subsection (1) above on the grant of a decree of judicial separation has come into force with respect to any party to a marriage, then, if the other party to that marriage dies while the decree is in force and the separation is continuing, the court shall not entertain any application for an order under section 2 of this Act made by the first-mentioned party.

16 Variation and discharge of secured periodical payments orders made under Matrimonial Causes Act 1973

- (1) Where an application for an order under section 2 of this Act is made to the court by any person who was at the time of the death of the deceased entitled to payments from the deceased under a secured periodical payments order made under the Matrimonial Causes Act 1973, then, in the proceedings on that application, the court shall have power, if an application is made under this section by that person or by the personal representative of the deceased, to vary or discharge that periodical payments order or to revive the operation of any provision thereof which has been suspended under section 31 of that Act.
- (2) In exercising the powers conferred by this section the court shall have regard to all the circumstances of the case, including any order which the court proposes to make under section 2 or section 5 of this Act and any change (whether resulting from the death of the deceased or otherwise) in any of the matters to which the court was required to have regard when making the secured periodical payments order.
- (3) The powers exercisable by the court under this section in relation to an order shall be exercisable also in relation to any instrument executed in pursuance of the order.

17 Variation and revocation of maintenance agreements

- (1) Where an application for an order under section 2 of this Act is made to the court by any person who was at the time of the death of the deceased entitled to payments from the deceased under a maintenance agreement which provided for the continuation of payments under the agreement after the death of the deceased, then, in the proceedings on that application, the court shall have power, if an application is made under this section by that person or by the personal representative of the deceased, to vary or revoke that agreement.
- (2) In exercising the powers conferred by this section the court shall have regard to all the circumstances of the case, including any order which the court proposes to make under section 2 or section 5 of this Act and any change (whether resulting from the death of the deceased or otherwise) in any of the circumstances in the light of which the agreement was made.

- (3) If a maintenance agreement is varied by the court under this section the like consequences shall ensue as if the variation had been made immediately before the death of the deceased by agreement between the parties and for valuable consideration.
- (4) In this section " maintenance agreement", in relation to a deceased person, means any agreement made, whether in writing or not and whether before or after the commencement of this Act, by the deceased with any person with whom he entered into a marriage, being an agreement which contained provisions governing the rights and liabilities towards one another when living separately of the parties to that marriage (whether or not the marriage has been dissolved or annulled) in respect of the making or securing of payments or the disposition or use of any property, including such rights and liabilities with respect to the maintenance or education of any child, whether or not a child of the deceased or a person who was treated by the deceased as a child of the family in relation to that marriage.

18 Availability of court's powers under this Act in applications under ss. 31 and 36 of Matrimonial Causes Act 1973

- (1) Where—
 - (a) a person against whom a secured periodical payments order was made under the Matrimonial Causes Act 1973 has died and an application is made under section 31(6) of that Act for the variation or discharge of that order or for the revival of the operation of any provision thereof which has been suspended, or
 - (b) a party to a maintenance agreement within the meaning of section 34 of that Act has died, the agreement being one which provides for the continuation of payments thereunder after the death of one of the parties, and an application is made under section 36(1) of that Act for the alteration of the agreement under section 35 thereof,

the court shall have power to direct that the application made under the said section 31(6) or 36(1) shall be deemed to have been accompanied by an application for an order under section 2 of this Act.
- (2) Where the court gives a direction under subsection (1) above it shall have power, in the proceedings on the application under the said section 31(6) or 36(1), to make any order which the court would have had power to make under the provisions of this Act if the application under the said section 31(6) or 36(1), as the case may be, had been made jointly with an application for an order under the said section 2; and the court shall have power to give such consequential directions as may be necessary for enabling the court to exercise any of the powers available to the court under this Act in the case of an application for an order under section 2.
- (3) Where an order made under section 15(1) of this Act is in force with respect to a party to a marriage, the court shall not give a direction under subsection (1) above with respect to any application made under the said section 31(6) or 36(1) by that party on the death of the other party.