

INHERITANCE AND TRUSTEES' POWERS ACT 2014

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

4. The Act implements the recommendations made by the Law Commission in Parts 2 to 7 of its Report, *Intestacy and Family Provision Claims on Death* (2011) Law Com No 331 published in December 2011.
5. The Law Commission's work was concerned with two areas of the law: the intestacy rules and the family provision legislation. In October 2009, the Law Commission published a consultation paper, *Intestacy and Family Provision Claims on Death* (2009) Law Commission Consultation Paper No 191. Following responses to this consultation, the Law Commission considered some aspects of trustees' powers more widely and a Supplementary Consultation Paper was published in May 2011.

Intestacy

6. The intestacy rules determine the distribution on a person's death of any of his or her property that is not governed by a valid will. They are largely contained in the Administration of Estates Act 1925 and the Intestates' Estates Act 1952. Priority is given to any surviving spouse or civil partner of the deceased, followed by blood relatives (children and other descendants, parents, siblings and their descendants, grandparents, aunts and uncles and their descendants).
7. The Law Commission's review considered all aspects of the intestacy rules, including the circumstances in which a surviving spouse or civil partner is required to share the deceased's property with other relatives, the order of priority between the different classes of relative and the way in which property is divided between the different generations within each class.

Family provision

8. The Inheritance (Provision for Family and Dependents) Act 1975 permits certain family members and dependants to apply to the court to vary the distribution of a deceased person's property, whether that is under the intestacy rules or the terms of a valid will. An application under the 1975 Act is often referred to as a claim for family provision.
9. The Law Commission's review considered the whole of the 1975 Act, including the categories of persons who are entitled to apply for an order under the Act, the factors the court must take into account when considering the application, the powers of the court to make orders and property that the court is able to take into account when making orders.

Trustees' powers

10. The intestacy rules require the creation of statutory trusts where beneficiaries are under 18 or property is to be shared between beneficiaries. The trustees of assets held under

*These notes refer to the Inheritance and Trustees' Powers Act
2014 (c.16) which received Royal Assent on 14 May 2014*

these trusts are usually (but not always) the personal representatives responsible for administering the estate.

11. The general law gives certain powers to trustees and imposes on them certain obligations. The Law Commission's project considered the powers and obligations under sections 31 and 32 of the Trustee Act 1925, which give trustees powers to distribute capital or income from the trust fund to a beneficiary who is under the age of 18, subject to certain restrictions.

Implementation of recommendations

12. The Act implements the Law Commission's recommendations by amending existing legislation, principally the Administration of Estates Act 1925, the Trustee Act 1925 and the Inheritance (Provision for Family and Dependants) Act 1975.