

INHERITANCE AND TRUSTEES' POWERS ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 4: minor and consequential amendments

96. [Paragraph 1](#) of Schedule 4 makes minor and consequential amendments to the Administration of Estates Act 1925.
97. [Paragraph 1\(2\)](#) omits section 46(3) of the 1925 Act, which operated in limited circumstances where an intestate and his or her younger spouse or civil partner died in circumstances rendering it uncertain which one survived the other. Ordinarily, section 184 of the Law of Property Act 1925 would deem the younger spouse or civil partner to have survived the intestate but section 46(3) provided that section 46 was to have effect as if the younger spouse or civil partner had not survived the intestate. In other words, for these limited purposes only, section 46(3) disapplied the deemed survival under section 184 of the Law of Property Act 1925. But section 46(2A) of the Administration of Estates Act 1925 (inserted by the Law Reform (Succession) Act 1995) rendered section 46(3) redundant. Section 46(2A) operates where the intestate's spouse or civil partner survives the intestate but dies within 28 days of the intestate's death. In those circumstances, the spouse or civil partner is deemed not to have survived. Therefore, in the circumstances contemplated by section 46(3), the younger spouse or civil partner is deemed by section 46(2A) not to have survived for the purposes of the intestacy rules. Section 46(3) therefore no longer serves a purpose and can be repealed.
98. [Paragraph 1\(3\)](#) omits section 47A of the Administration of Estates Act 1925, which gave a surviving spouse or civil partner a right to redeem a life interest arising on intestacy. The reforms enacted under section 1 of the Act mean that no further life interests will be created under the intestacy rules. Section 47A will therefore become redundant for deaths after the coming into force of section 1 and can be repealed.
99. [Paragraph 1\(4\)](#) omits section 48(2)(b) of the Administration of Estates Act 1925, which gave personal representatives power to raise capital to enable the purchase or redemption of the surviving spouse or civil partner's life interest by borrowing against the security of the rest of the estate. The reforms enacted under section 1 of the Act mean that no further life interests will arise under the intestacy rules. Section 48(2)(b) will therefore become redundant for deaths after the coming into force of section 1. [Paragraph 1\(4\)](#) therefore omits section 48(2)(b) and amends the rest of section 48 accordingly.
100. [Paragraph 1\(5\)](#) omits section 49(4) of the Administration of Estates Act 1925, which clarified the way in which the word "property" is used in section 47A and is rendered unnecessary by the repeal of section 47A.
101. [Paragraph 2](#) of Schedule 4 makes minor and consequential amendments to the Intestates' Estates Act 1952, Schedule 2 of which governs the operation of a surviving

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

spouse or civil partner's right to appropriate his or her former matrimonial or civil partnership home.

102. [Paragraph 2\(2\)](#) omits paragraph 1(4) of Schedule 2 to the 1952 Act. That paragraph dealt with the treatment of a spouse or civil partner's life interest created under the intestacy rules and is rendered redundant by section 1 of the Act, which has the effect that no such interests will be created in future.
103. [Paragraph 2\(3\)](#) substitutes new wording for paragraph 3(3) of Schedule 2 to the 1952 Act to take account of the repeal of section 47A of the Administration of Estates Act 1925.
104. [Paragraph 3](#) of Schedule 4 amends the Administration of Justice Act 1977 by omitting section 28(1), which inserted subsection (1A) into section 46 of the Administration of Estates Act 1925 (giving the Lord Chancellor power to set the interest rate that accrues on the fixed net sum to which a surviving spouse or civil partner is entitled). Section 1(3) of the Act substitutes a new subsection (1A) into section 46 of the 1925 Act, rendering section 28(1) of the 1977 Act redundant.
105. [Paragraph 4](#) of Schedule 4 amends the Inheritance Tax Act 1984 to take account of the repeal of section 47A of the Administration of Estates Act 1925.
106. [Paragraph 5](#) of Schedule 4 amends the Law Reform (Succession) Act 1995 to take account of the amendment of section 1(1) of the Inheritance (Provision for Family and Dependents) Act 1975, and the restatement of the list of categories of person eligible to make an application for family provision in new section 1(1ZA) of that Act.
107. [Paragraph 6](#) of Schedule 4 amends the Civil Partnership Act 2004 to take account of the amendment of section 1(1) of the Inheritance (Provision for Family and Dependents) Act 1975, and the restatement of the list of categories of person eligible to make an application for family provision in new section 1(1ZA) of that Act.