

SCHEDULES

SCHEDULE 6

Article 157.

PROPERTY RIGHTS WHERE PARENTS NOT MARRIED TO EACH OTHER

Succession on intestacy

1.—(1) In Part II of the Administration of Estates Act (Northern Ireland) 1955⁽¹⁾ (which deals with the distribution of the estate of an intestate), references (however expressed) to any relationship between two persons shall be construed in accordance with Article 155.

(2) For the purposes of sub-paragraph (1) and that Part of that Act, a person whose father and mother were not married to each other at the time of his birth shall be presumed not to have been survived by his father, or by any person related to him only through his father, unless the contrary is shown.

(3) In section 19(1) of that Act (which relates to the construction of documents), the reference to Part II of that Act, or to the foregoing provisions of that Part, shall in relation to an instrument inter vivos made, or a will coming into operation, after the commencement of this paragraph (but not in relation to instruments inter vivos made or wills coming into operation earlier) be construed as including references to this paragraph.

(4) This paragraph does not affect any rights under the intestacy of a person dying before the commencement of this paragraph.

Dispositions of property

2.—(1) In the following dispositions, namely—

(a) dispositions inter vivos made after the commencement of this paragraph; and

(b) dispositions by will where the will is made after the commencement of this paragraph,

references (whether express or implied) to any relationship between two persons shall be construed in accordance with Article 155.

(2) The use, without more, of the word “heir” or “heirs” or any expression which is used to create an entailed interest in real or personal property does not show a contrary intention for the purposes of Article 155 as applied by sub-paragraph (1).

(3) In relation to the dispositions mentioned in sub-paragraph (1), section 34 of the Trustee Act (Northern Ireland) 1958⁽²⁾ (which specifies the trust implied by a direction that income is to be held on protective trusts for the benefit of any person) shall have effect as if any reference (however expressed) to any relationship between two persons were construed in accordance with Article 155.

(4) Where under any disposition of real or personal property, any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this paragraph, devolve (as nearly as the law permits) along with a dignity or title of honour, then—

(1) 1955 c. 24 (N.I.)

(2) 1958 c. 23 (N.I.)

Status: This is the original version (as it was originally made).

- (a) whether or not the disposition contains an express reference to the dignity or title of honour; and
- (b) whether or not the property or some interest in the property may in some event become severed from it,

nothing in this paragraph shall operate to sever the property or any interest in it from the dignity or title, but the property or interest shall devolve in all respects as if this paragraph had not come into operation.

(5) This paragraph is without prejudice to Article 42 of the Adoption Order (construction of dispositions in cases of adoption).

(6) In this paragraph “disposition” means a disposition, including an oral disposition, of real or personal property whether inter vivos or by will.

(7) Notwithstanding any rule of law, a disposition made by will executed before the date on which this paragraph comes into operation shall not be treated for the purposes of this paragraph as made on or after that date by reason only that the will is confirmed by a codicil executed on or after that date.

No special protection for trustees and personal representatives

3. Article 6 of the Family Law Reform (Northern Ireland) Order 1977(3) (which enables trustees and personal representatives to distribute property without having ascertained that no person whose parents were not married to each other at the time of his birth, or who claims through such a person, is or may be entitled to an interest in the property) shall cease to have effect.

Entitlement to grant of probate, etc.

4.—(1) For the purpose of determining the person or persons who would in accordance with rules of court be entitled to a grant of probate or administration in respect of the estate of a deceased person, the deceased shall be presumed, unless the contrary is shown, not to have been survived—

- (a) by any person related to him whose father and mother were not married to each other at the time of his birth; or
- (b) by any person whose relationship with him is deduced through such a person as is mentioned in head (a).

(2) This paragraph does not apply in relation to the estate of a person dying before the commencement of this paragraph.

(3) 1977 NI 17