
STATUTORY INSTRUMENTS

1979 No. 1575

Administration of Estates (Northern Ireland) Order 1979

PART IV

EXECUTORS AND ADMINISTRATORS

Executors

Cesser of right of executor to prove

29.—(1) Subject to Article 30 where a person appointed executor by a will—

- (a) survives the testator but dies without having taken out probate, or
- (b) is cited to take out probate and does not appear to the citation, or
- (c) renounces probate,

his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his estate shall devolve and be committed in like manner as if that person had not been appointed executor.

(2) Where a person is appointed by the will of a person dying after the commencement of this Article to be both executor and trustee and his rights in respect of the executorship wholly cease under paragraph (1), his rights in respect of the trusteeship shall also wholly cease and the trusteeship shall devolve or be determined as if he had not been appointed as trustee, but nothing in this Article shall prevent his subsequent appointment as trustee.

Withdrawal of renunciation

30.—(1) Notwithstanding anything to the contrary in Article 29, an executor who has renounced probate (whether before or after the commencement of this Article) may be permitted by the court to withdraw the renunciation and prove the will.

(2) Where an executor who has renounced probate has been permitted to withdraw the renunciation and prove the will,—

- (a) the probate shall take effect and be deemed always to have taken effect without prejudice to the previous acts and dealings of and notices to any other person who has previously proved the will or to whom administration has been granted;
- (b) a memorandum of the subsequent probate shall be endorsed on the original grant; and
- (c) his rights as a trustee which ceased by virtue of Article 29, shall notwithstanding anything to the contrary in that Article, revive, except so far as the court otherwise orders.

Right of proving executors to exercise powers

31.—(1) When probate is granted to one or some of two or more persons appointed executors by a will, whether or not power is reserved to the other or others to prove, all the powers which

are by law conferred on the personal representative may be exercised by the proving executor or executors for the time being and shall be as effectual as if all the persons appointed executors had concurred therein.

(2) This Article applies whether the testator died before or after the commencement of this Article.

Executor of executor represents original testator

32.—(1) An executor of a sole or last surviving executor of a testator shall be the executor of that testator, but—

- (a) this paragraph shall not apply to a person who does not prove the will of his testator, and
- (b) in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, this paragraph shall cease to apply when probate is granted to that surviving executor.

(2) So long as the chain of representation is unbroken, the last executor in the chain is the executor of every preceding testator.

(3) The chain of representation is broken by—

- (a) an intestacy; or
- (b) the failure of a testator to appoint an executor; or
- (c) the failure to obtain probate of a will; or
- (d) a grant of administration in pursuance of Article 5;

but is not broken by a temporary grant of administration if probate is subsequently granted.

(4) Every person in the chain of representation to a testator—

- (a) has the same rights in respect of the estate of that testator as the original executor would have had if living; and
- (b) is, to the extent to which the estate of that testator has come to his hands, answerable as if he were an original executor.

Changes to legislation:

There are currently no known outstanding effects for the Administration of Estates (Northern Ireland) Order 1979, Cross Heading: Executors.