



Perpetuities and Accumulations Act 1964

1964 CHAPTER 55

Perpetuities

3 Uncertainty as to remoteness

- (1) Where, apart from the provisions of this section and sections 4 and 5 of this Act, a disposition would be void on the ground that the interest disposed of might not become vested until too remote a time, the disposition shall be treated, until such time (if any) as it becomes established that the vesting must occur, if at all, after the end of the perpetuity period, as if the disposition were not subject to the rule against perpetuities; and its becoming so established shall not affect the validity of anything previously done in relation to the interest disposed of by way of advancement, application of intermediate income or otherwise.
- (2) Where, apart from the said provisions, a disposition consisting of the conferring of a general power of appointment would be void on the ground that the power might not become exercisable until too remote a time, the disposition shall be treated, until such time (if any) as it becomes established that the power will not be exercisable within the perpetuity period, as if the disposition were not subject to the rule against perpetuities.
- (3) Where, apart from the said provisions, a disposition consisting of the conferring of any power, option or other right would be void on the ground that the right might be exercised at too remote a time, the disposition shall be treated as regards any exercise of the right within the perpetuity period as if it were not subject to the rule against perpetuities and, subject to the said provisions, shall be treated as void for remoteness only if, and so far as, the right is not fully exercised within that period.
- (4) Where this section applies to a disposition and the duration of the perpetuity period is not determined by virtue of section 1 or 9(2) of this Act, it shall be determined as follows:—
 - (a) where any persons falling within subsection (5) below are individuals in being and ascertainable at the commencement of the perpetuity period the duration of the period shall be determined by reference to their lives and no others, but so that the lives of any description of persons falling within paragraph (b) or (c) of that subsection shall be disregarded if the number of persons of that

description is such as to render it impracticable to ascertain the date of death of the survivor;

- (b) where there are no lives under paragraph (a) above the period shall be twenty-one years.

(5) The said persons are as follows:—

- (a) the person by whom the disposition was made;
- (b) a person to whom or in whose favour the disposition was made, that is to say—
 - (i) in the case of a disposition to a class of persons, any member or potential member of the class ;
 - (ii) in the case of an individual disposition to a person taking only on certain conditions being satisfied, any person as to whom some of the conditions are satisfied and the remainder may in time be satisfied;
 - (iii) in the case of a special power of appointment exercisable in favour of members of a class, any member or potential member of the class;
 - (iv) in the case of a special power of appointment exercisable in favour of one person only, that person or, where the object of the power is ascertainable only on certain conditions being satisfied, any person as to whom some of the conditions are satisfied and the remainder may in time be satisfied ;
 - (v) in the case of any power, option or other right, the person on whom the right is conferred;
- (c) a person having a child or grandchild within sub-paragraphs (i) to (iv) of paragraph (b) above, or any of whose children or grandchildren, if subsequently born, would by virtue of his or her descent fall within those sub-paragraphs;
- (d) any person on the failure or determination of whose prior interest the disposition is limited to take effect.