

SCHEDULES

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Guardianship of Minors Act 1971 (c.3)

35 After that section there shall be inserted the following section—

“12D Variation of orders for secured periodical payments after death of parent.

- (1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation or discharge of the order shall include the personal representatives of the deceased parent, and no application for the variation of the order shall, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.
- (2) The personal representatives of a deceased person against whom a secured periodical payments order was made shall not be liable for having distributed any part of the estate of the deceased after the expiration of the period of six months referred to in subsection (1) of this section on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order; but this subsection shall not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this section.
- (3) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under section 12C(1) of this Act shall include the changed circumstances resulting from the death of that parent.
- (4) In considering for the purposes of subsection (1) of this section the question when representation was first taken out, a grant limited to settled land or to trust property shall be left out of account and a grant limited to real estate or to personal estate shall be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.
- (5) In this section 'secured periodical payments order' means an order for secured periodical payments made by virtue of section 11B(2)(b) or 11C(3)(b) of this Act.”