Law of Property (Miscellaneous Provisions) Act 1994

1994 CHAPTER 36

PART II

MATTERS ARISING IN CONNECTION WITH DEATH

14 Vesting of estate in case of intestacy or lack of executors.

(1) For section 9 of the [M1] Administration of Estates Act 1925 (vesting of estate of intestate between death and grant of administration) substitute—

"**9 Vesting of estate in Public Trustee where intestacy or lack of executors.**

(1) Where a person dies intestate, his real and personal estate shall vest in the Public Trustee until the grant of administration.

(2) Where a testator dies and—

(a) at the time of his death there is no executor with power to obtain probate of the will, or

(b) at any time before probate of the will is granted there ceases to be any executor with power to obtain probate,

the real and personal estate of which he disposes by the will shall vest in the Public Trustee until the grant of representation.

(3) The vesting of real or personal estate in the Public Trustee by virtue of this section does not confer on him any beneficial interest in, or impose on him any duty, obligation or liability in respect of, the property."

(2) Any real or personal estate of a person dying before the commencement of this section shall, if it is property to which this subsection applies, vest in the Public Trustee on the commencement of this section.

(3) Subsection (2) above applies to any property—

(a) if it was vested in the Probate Judge under section 9 of the [M2]Administration of Estates Act 1925 immediately before the commencement of this section, or

(b) if it was not so vested but as at commencement there has been no grant of representation in respect of it and there is no executor with power to obtain such a grant.

(4) Any property vesting in the Public Trustee by virtue of subsection (2) above shall—

(a) if the deceased died intestate, be treated as vesting in the Public Trustee under section 9(1) of the [M3]Administration of Estates Act 1925 (as substituted by subsection (1) above); and

(b) otherwise be treated as vesting in the Public Trustee under section 9(2) of that Act (as so substituted).

(5) Anything done by or in relation to the Probate Judge with respect to property vested in him as mentioned in subsection (3)(a) above shall be treated as having been done by or in relation to the Public Trustee.

(6) So far as may be necessary in consequence of the transfer to the Public Trustee of the functions of the Probate Judge under section 9 of the [M4]Administration of Estates Act 1925, any reference in an enactment or instrument to the Probate Judge shall be construed as a reference to the Public Trustee.

Marginal Citations

M1 1925 c. 23.
M2 1925 c. 23.
M3 1925 c. 23.
M4 1925 c. 23.

15 Registration of land charges after death.

(1) The [M5]Land Charges Act 1972 is amended as follows.

(2) In section 3 (registration of land charges), after subsection (1) (registration in name of estate owner), insert—

"(1A) Where a person has died and a land charge created before his death would apart from his death have been registered in his name, it shall be so registered notwithstanding his death."

(3) In section 5 (register of pending actions), after subsection (4) (entry in name of person whose estate or interest is intended to be affected), insert—

"(4A) Where a person has died and a pending land action would apart from his death have been registered in his name, it shall be so registered notwithstanding his death."

(4) In section 6 (register of writs and orders affecting land), after subsection (2) (entry in name of estate owner or other person whose land is affected), insert—

"(2A) Where a person has died and any such writ or order as is mentioned in subsection (1)(a) or (b) above would apart from his death have been registered in his name, it shall be so registered notwithstanding his death."

(5) The amendments made by this section do not apply where the application for registration was made before the commencement of this section, but without prejudice to a person's right to make a new application after commencement.

Marginal Citations

M5 1972 c. 61.

16 Concurrence of personal representatives in dealings with interests in land.

(1) In section 2(2) of the [M6]Administration of Estates Act 1925 (concurrence of all personal representatives required for conveyance of real estate)—

(a) after "a conveyance of real estate devolving under this Part of this Act" insert " or a contract for such a conveyance ";

(b) omit the words ", save as otherwise provided as respects trust estates including settled land," (which are unnecessary); and

(c) after "any conveyance of the real estate" insert " or contract for such a conveyance ".

[F1](2) . . . . . .

(3) The amendments made by subsection (1) apply to contracts made after the commencement of this section [F2]. . .

Textual Amendments

F1 S. 16(2) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with s. 24(2), 25(4)); S.I. 1996/2974, **art.2**.

F2 Words in s. 16(3) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with s. 24(2), 25(4)); S.I. 1996/2974, **art.2**.

Marginal Citations

M6 1925 c. 23.

17 Notices affecting land: absence of knowledge of intended recipient's death.

(1) Service of a notice affecting land which would be effective but for the death of the intended recipient is effective despite his death if the person serving the notice has no reason to believe that he has died.

(2) Where the person serving a notice affecting land has no reason to believe that the intended recipient has died, the proper address for the purposes of section 7 of the [M7]Interpretation Act 1978 (service of documents by post) shall be what would be the proper address apart from his death.

(3) The above provisions do not apply to a notice authorised or required to be served for the purposes of proceedings before—

(a) any court,

[[F3](b) any tribunal that **[**[F4]was**]** (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council) **[**[F5]immediately before the coming into force of the repeal of that Schedule**]**, or **]**

(c) the Chief Land Registrar or **[**[F6]the Adjudicator to Her Majesty's Land Registry**]**;

but this is without prejudice to the power to make provision in relation to such proceedings by rules of court, procedural rules **[**[F7]of any tribunal referred to in sub-paragraph (b)**]** or rules under **[**[F8]the Land Registration Act 2002**]**.

Textual Amendments

F3 S. 17(3)(b) substituted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 8 para. 33(2)**; S.I. 2007/2709, art. 3(b)(i)

F4 Word in s. 17(3)(b) substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 16(a)(i)**

F5 Words in s. 17(3)(b) inserted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 16(a)(ii)**

F6 Words in s. 17(3)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 31(3)(a)** (with s. 129); S.I. 2003/1725, art. 2(1)

F7 Words in s. 17(3) substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 16(b)**

F8 Words in s. 17(3) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 31(3)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)

Marginal Citations

M7 1978 c. 30.

18 Notices affecting land: service on personal representatives before filing of grant.

(1) A notice affecting land which would have been authorised or required to be served on a person but for his death shall be sufficiently served before a grant of representation has been filed if—

(a) it is addressed to "The Personal Representatives of" the deceased (naming him) and left at or sent by post to his last known place of residence or business in the United Kingdom, and

(b) a copy of it, similarly addressed, is served on the Public Trustee.

(2) The reference in subsection (1) to the filing of a grant of representation is to the filing at the Principal Registry of the Family Division of the High Court of a copy of a grant of representation in respect of the deceased's estate or, as the case may be, the part of his estate which includes the land in question.

(3) The method of service provided for by this section is not available where provision is made—

(a) by or under any enactment, or

(b) by an agreement in writing,

requiring a different method of service, or expressly prohibiting the method of service provided for by this section, in the circumstances.

19 Functions of Public Trustee in relation to notices, etc.

(1) The Public Trustee may give directions as to the office or offices at which documents may be served on him—

(a) by virtue of section 9 of the [M8]Administration of Estates Act 1925 (as substituted by section 14(1) above), or

(b) in pursuance of section 18(1)(b) above (service on Public Trustee of copy of certain notices affecting land);

and he shall publish such directions in such manner as he considers appropriate.

(2) The Lord Chancellor may by regulations make provision with respect to the functions of the Public Trustee in relation to such documents; and the regulations may make different provision in relation to different descriptions of document or different circumstances.

(3) The regulations may, in particular, make provision requiring the Public Trustee—

(a) to keep such documents for a specified period and thereafter to keep a copy or record of their contents in such form as may be specified;

(b) to keep such documents, copies and records available for inspection at such reasonable hours as may be specified; and

(c) to supply copies to any person on request.

In this subsection "specified" means specified by or under the regulations.

(4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The following provisions of the [M9]Public Trustee Act 1906, namely—

(a) section 8(5) (payment of expenses out of money provided by Parliament), and

(b) section 9(1) **[**[F9]and (3)**]**(provisions as to fees),

apply in relation to the functions of the Public Trustee in relation to documents to which this section applies as in relation to his functions under that Act.

Textual Amendments

F9 Words in s. 19(5)(b) susbtituted (7.11.2002) by 2002 c. 35, **s. 2(4)**

Marginal Citations

M8 1925 c. 23.

M9 1906 c. 55.

Changes to legislation:
There are currently no known outstanding effects for the Law of Property (Miscellaneous Provisions) Act 1994, Part II.