



Intestates' Estates Act 1952

1952 CHAPTER 64

PART I

AMENDMENTS OF LAW OF INTESTATE SUCCESSION

2 Right of surviving spouse to have life interest redeemed

As respects a person dying intestate after the commencement of this Act—

- (a) subsection (1) of section forty-eight of the principal Act (which authorises the personal representative to redeem the surviving spouse's life interest in the residuary estate with his or her consent) shall not have effect, and
- (b) Part IV of the principal Act shall have effect as if the following section were added immediately before that section:—

(1) Where a surviving husband or wife is entitled to a life interest in part of the residuary estate, and so elects, the personal representative shall purchase or redeem the life interest by paying the capital value thereof to the tenant for life, or the persons deriving title under the tenant for life, and the costs of the transaction ; and thereupon the residuary estate of the intestate may be dealt with and distributed free from the life interest.

(2) The said capital value shall be reckoned in accordance with the rules set out in this subsection:—

1. There shall be ascertained the annual value of the life interest to which the surviving husband or wife would be entitled if the said part of the residuary estate (whether or not yielding income) were on the date of redemption of the life interest re-invested in the two-and-a-half per cent. consolidated stock referred to in section two of the National Debt (Conversion) Act, 1888.
2. There shall be ascertained the amount which, if invested on the said date in the purchase of an immediate life annuity from the National Debt Commissioners through the Post Office Savings

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Bank, would purchase an annuity for the tenant for life of the annual value ascertained under rule 1.

3. The said capital value shall, subject to rule 4, be the amount ascertained under rule 2 diminished by five per cent. thereof.
4. If the age of the tenant for life on the said date exceeds eighty years, a further deduction shall be made equal to five per cent. of the amount ascertained under rule 2 for each complete year by which the age exceeds eighty:

Provided that, if the effect of this rule would otherwise be that the said capital value was less than one-and-a-half times the annual value ascertained under rule 1, the said capital value shall be one-and-a-half times that annual value.

- (3) An election under this section shall only be exercisable if at the time of the election the whole of the said part of the residuary estate consists of property in possession, but, for the purposes of this section, a life interest in property partly in possession and partly not in possession shall be treated as consisting of two separate life interests in those respective parts of the property.
- (4) If the tenant for life dies after the exercise of the election under this section but before effect is given to that election, the date of redemption shall be taken for the purposes of subsection (2) of this section to be the date immediately before the death of the tenant for life.
- (5) An election under this section shall be exercisable only within the period of twelve months from the date on which representation with respect to the estate of the intestate is first taken out:

Provided that if the surviving husband or wife satisfies the court that the limitation to the said period of twelve months will operate unfairly—

- (a) in consequence of the representation first taken out being probate of a will subsequently revoked on the ground that the will was invalid, or
- (b) in consequence of a question whether a person had an interest in the estate, or as to the nature of an interest in the estate, not having been determined at the time when representation was first taken out, or
- (c) in consequence of some other circumstances affecting the administration or distribution of the estate,

the court may extend the said period.

- (6) An election under this section shall be exercisable, except where the tenant for life is the sole personal representative, by notifying the personal representative (or, where there are two or more personal representatives of whom one is the tenant for life, all of them except the tenant for life) in writing; and a notification in writing under this subsection shall not be revocable except with the consent of the personal representative.

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- (7) Where the tenant for life is the sole personal representative an election under this section shall not be effective unless written notice thereof is given to the principal probate registrar within the period within which it must be made; and provision may be made by probate rules for keeping a record of such notices and making that record available to the public.

In this subsection the expression " probate rules " means rules made under section one hundred of the Supreme Court of Judicature (Consolidation) Act, 1925.

- (8) An election under this section by a tenant for life who is an infant shall be as valid and binding as it would be if the tenant for life were of age; but the personal representative shall, instead of paying the capital value of the life interest to the tenant for life, deal with it in the same manner as with any other part of the residuary estate to which the tenant for life is absolutely entitled.
- (9) In considering for the purposes of the foregoing provisions 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."