



Succession (Scotland) Act 2016

2016 asp 7

Testamentary documents and special destinations

6 Death before legacy vests: entitlement of issue

- (1) This section applies where—
 - (a) a person (“the testator”) by a will bequeaths a legacy to—
 - (i) a direct descendant of the testator, or
 - (ii) more than one person where both or (as the case may be) all of those persons are direct descendants of the testator, and
 - (b) the person to whom the legacy is bequeathed or, if it is bequeathed to more than one person, a person to whom it is bequeathed—
 - (i) is alive when the will is executed, but
 - (ii) fails to survive the date of vesting of the legacy.
- (2) Any issue of the deceased legatee alive when the legacy would, but for the legatee's death, have vested in the legatee is entitled to receive the legacy unless it is clear from the terms of the will that the testator intended otherwise.
- (3) Without prejudice to the generality of subsection (2), it is to be regarded as clear from the terms of the will that the testator intended otherwise if the will provides expressly that the legacy is bequeathed—
 - (a) to the deceased legatee and another person (or other persons) and to the survivor (or survivors) of them, or
 - (b) to the deceased legatee, whom failing to another person (or other persons).
- (4) Where the legacy is bequeathed to more than one direct descendant, the share of it which the deceased legatee's issue is entitled to receive is the share which the deceased legatee would have received if alive.
- (5) Any distribution made by virtue of this section between or among two or more of the deceased legatee's issue is to be made in the same way as if it were a distribution between or among them of the whole or part of an intestate estate.
- (6) In this section—

“intestate estate” means an estate, or any part of an estate, which is not disposed of by will,

Changes to legislation: There are currently no known outstanding effects for the Succession (Scotland) Act 2016, Section 6. (See end of Document for details)

“issue” means issue however remote.

Commencement Information

- II** S. 6 in force at 1.11.2016 in relation to the estate of any person who dies on or after 1.11.2016 by [S.S.I. 2016/210](#), [reg. 2\(1\)\(a\)\(2\)](#) (with [reg. 3\(2\)](#))

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