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STATUTORY INSTRUMENTS

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**1979 No. 924**

**Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979**

Introductory

**Title and commencement**

1.—(1) This Order may be cited as the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979.

(2) *Commencement*

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

*Definition rep. by 1987 NI 22*

“beneficiary”, in relation to the estate of a deceased person, means—

- (a) a person who under the will of the deceased or under the law relating to intestacy is beneficially interested in the estate or would be so interested if an order had not been made under this Order, and
- (b) a person who has received any sum of money or other property which by virtue of Article 10(1) or (2) is treated as part of the net estate of the deceased or would have received that sum or other property if an order had not been made under this Order;

“child” includes an illegitimate<sup>F1</sup> . . . child and a child en ventre sa mère at the death of the deceased;

<sup>F2</sup> ...

“the court” means the High Court, or where a county court has jurisdiction by virtue of Article 24, a county court;

<sup>F2</sup> ...

[<sup>F3</sup>“former civil partner” means a person whose civil partnership with the deceased was during the lifetime of the deceased either—

- (a) dissolved or annulled by an order made under the law of any part of the United Kingdom or the Channel Islands or the Isle of Man, or
- (b) dissolved or annulled in any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man by a dissolution or annulment which is entitled to be recognised as valid by the law of Northern Ireland;]

[<sup>F4</sup>[<sup>F3</sup>“former spouse”] means a person whose marriage with the deceased was during the lifetime of the deceased either—

- (a) dissolved or annulled by a decree of divorce or a decree of nullity of marriage granted under the law of any part of the United Kingdom or the Channel Islands or under the law of the Isle of Man, or
- (b) dissolved or annulled in any country or territory outside the United Kingdom, the Channel Islands and the Isle of Man by a divorce or annulment which is entitled to be recognised as valid by the law of Northern Ireland;]

“full valuable consideration” means such valuable consideration as amounts or approximates to the value of that for which it is given;

“net estate”, in relation to a deceased person, means—

- (a) all property of which the deceased had power to dispose by his will (otherwise than by virtue of a special power of appointment) less the amount of his funeral, testamentary and administration expenses, debts and liabilities, including any capital transfer tax payable out of his estate on his death;
- (b) any property in respect of which the deceased held a general power of appointment (not being a power exercisable by will) which has not been exercised;
- (c) any sum of money or other property which is treated for the purposes of this Order as part of the net estate of the deceased by virtue of Article 10(1) or (2);
- (d) any property which is treated for the purposes of this Order as part of the net estate of the deceased by virtue of an order made under Article 11;
- (e) any sum of money or other property which is, by reason of a disposition or contract made by the deceased, ordered under Article 12 or 13 to be provided for the purpose of the making of financial provision under this Order;

“property” includes any chose in action;

“reasonable financial provision”

- (a) in the case of an application made by virtue of Article 3(1)(a) by the husband or wife of the deceased (except where the marriage with the deceased was the subject of a decree of judicial separation and at the date of death the decree was in force and the separation was continuing), means such financial provision as it would be reasonable in all the circumstances of the case for a husband or wife to receive, whether or not that provision is required for his or her maintenance;
- (aa) [<sup>F3</sup>in the case of an application made by virtue of Article 3(1)(a) by the civil partner of the deceased (except where, at the date of death, a separation order under Chapter 2 of Part 4 of the Civil Partnership Act 2004 was in force in relation to the civil partnership and the separation was continuing), means such financial provision as it would be reasonable in all the circumstances of the case for a civil partner to receive, whether or not that provision is required for his or her maintenance;]
- (b) in the case of any other application made by virtue of Article 3(1), means such financial provision as it would be reasonable in all the circumstances of the case for the applicant to receive for his maintenance;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 ;

“valuable consideration” does not include marriage or a promise of marriage;

“will” includes codicil.

(3) For the purposes of paragraph (a) of the definition of “net estate” in paragraph (2) a person who is not of full age and capacity shall be treated as having power to dispose by will of all property of which he would have had power to dispose by will if he had been of full age and capacity.

(4) Any reference in this Order to provision out of the net estate of a deceased person includes a reference to provision extending to the whole of that estate.

(5) For the purposes of this Order any reference to a<sup>[F3]</sup> spouse,] wife or husband shall be treated as including a reference to a person who in good faith entered into a void marriage with the deceased unless either—

- (a) the marriage of the deceased and that person was dissolved or annulled during the lifetime of the deceased and the dissolution or annulment is recognised by the law of Northern Ireland, or
- (b) that person has during the lifetime of the deceased<sup>[F3]</sup> formed a subsequent marriage or civil partnership].

<sup>[F3]</sup>(5A) For the purposes of this Order any reference to a civil partner shall be treated as including a reference to a person who in good faith formed a void civil partnership with the deceased unless either—

- (a) the civil partnership between the deceased and that person was dissolved or annulled during the lifetime of the deceased and the dissolution or annulment is recognised by the law of Northern Ireland, or
- (b) that person has during the lifetime of the deceased formed a subsequent civil partnership or marriage.

(6) Any reference in this Order to the formation of, or to a person who has formed, a subsequent marriage or civil partnership includes (as the case may be) a reference to the formation of, or to a person who has formed, a marriage or civil partnership which is by law void or voidable.

(6A) The formation of a marriage or civil partnership shall be treated for the purposes of this Order as the formation of a subsequent marriage or civil partnership, in relation to either of the spouses or civil partners, notwithstanding that the previous marriage or civil partnership of that spouse or civil partner was void or voidable.]

**F1** 1987 NI 22

**F2** Words in art. 2(2) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 78\(1\), Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387, art. 2\(k\)\(l\)](#) (with art. 3)

**F3** 2004 c. 33

**F4** 1989 NI 4

**Changes to legislation:**

There are currently no known outstanding effects for the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979, Introductory.