
STATUTORY INSTRUMENTS

1994 No. 1899

**The Wills and Administration Proceedings
(Northern Ireland) Order 1994**

PART II

WILLS

Interpretation of wills

Extrinsic evidence

25.—(1) This Article applies to a will—

- (a) in so far as any part of it is meaningless;
- (b) in so far as the language used in any part of it is ambiguous on the face of it;
- (c) in so far as evidence, other than evidence of the testator's intention, shows that the language used in any part of it is ambiguous in the light of surrounding circumstances.

(2) In so far as this Article applies to a will extrinsic evidence, including evidence of the testator's intention, may be admitted to assist in its interpretation.

Construction of certain expressions

26.—(1) Unless a contrary intention appears from the will, in a will—

- (a) "month" means calendar month;
- (b) "person" includes a corporation;
- (c) words in the singular include the plural, and words in the plural include the singular;
- (d) words importing the masculine gender include the feminine, and words importing the feminine gender include the masculine;
- (e) "land" includes—
 - (i) buildings and other structures;
 - (ii) land covered by water;
 - (iii) any estate in land;
 - (iv) any beneficial interest, of which the testator could dispose by will, in capital money;
 - (v) if the testator dies owning no other property passing under a gift of land, any beneficial interest, of which the testator could dispose by will, in proceeds of sale under a trust for sale of land;
- (f) "realty" or any cognate expression includes—
 - (i) any beneficial interest, of which the testator could dispose by will, in capital money arising from a legal or equitable fee simple;

(ii) if the testator dies owning no other property passing under a gift of realty, any beneficial interest, of which the testator could dispose by will, in proceeds of sale under a trust for sale of a legal or equitable fee simple.

(2) In this Article “capital money” means capital money under the Settled Land Acts 1882 to 1890.

Construction and effect of references to failure of issue

27.—(1) Where by a will a person is entitled to any property subject to a condition precedent or subsequent (whether or not giving rise to an executory limitation) importing a default or failure of the issue of any person, whether within or at any specified time or not, in his lifetime, at the time of his death or thereafter (including an indefinite failure of issue), the provisions of this Article apply to that condition.

(2) Unless a contrary intention appears from the will, the words of the condition shall be construed to import a default or failure of the issue of the said person only in the lifetime of that person.

(3) Where the condition gives rise to an executory limitation over, a right of entry or re-entry or any right equivalent thereto, a possibility of reverter or a possibility of a resulting trust on default or failure of any of the said person’s issue, whether or not—

(a) the construction is governed by paragraph (2); and

(b) the default or failure is to be within any specified period of time,

then, if and as soon as there is living any issue, who has attained the age of 18 or married, to whose default or failure the condition relates, a default or failure ceases to be possible and the limitation over, right or possibility, as the case may be, ceases to exist.

(4) This Article does not apply to an estate tail.

Operative meaning to be preferred

28. If the purport of a gift admits of more than one interpretation, then, in case of doubt, the interpretation according to which the gift will be operative is to be preferred.