



Succession (Scotland) Act 1964

1964 CHAPTER 41

PART I

INTESTATE SUCCESSION

2 Rights of succession to intestate estate.

- (1) Subject to the following provisions of this Part of this Act—
- (a) where an intestate is survived by children, they shall have right to the whole of the intestate estate;
 - (b) where an intestate is survived by either of, or both, his parents and is also survived by brothers or sisters, but is not survived by any prior relative, the surviving parent or parents shall have right to one half of the intestate estate and the surviving brothers and sisters to the other half thereof;
 - (c) where an intestate is survived by brothers or sisters, but is not survived by any prior relative, the surviving brothers and sisters shall have right to the whole of the intestate estate;
 - (d) where an intestate is survived by either of, or both, his parents, but is not survived by any prior relative, the surviving parent or parents shall have right to the whole of the intestate estate;
 - (e) where an intestate is survived by a husband [^{F1}, wife or civil partner], but is not survived by any prior relative, the surviving spouse [^{F2} or civil partner] shall have right to the whole of the intestate estate;
 - (f) where an intestate is survived by uncles or aunts (being brothers or sisters of either parent of the intestate), but is not survived by any prior relative, the surviving uncles and aunts shall have right to the whole of the intestate estate;
 - (g) where an intestate is survived by a grandparent or grandparents (being a parent or parents of either parent of the intestate), but is not survived by any prior relative, the surviving grandparent or grandparents shall have right to the whole of the intestate estate;
 - (h) where an intestate is survived by brothers or sisters of any of his grandparents (being a parent or parents of either parent of the intestate), but is not survived

Changes to legislation: Succession (Scotland) Act 1964, Section 2 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

by any prior relative, those surviving brothers and sisters shall have right to the whole of the intestate estate;

- (i) where an intestate is not survived by any prior relative, the ancestors of the intestate (being remoter than grandparents) generation by generation successively, without distinction between the paternal and maternal lines, shall have right to the whole of the intestate estate; so however that, failing ancestors of any generation, the brothers and sisters of any of those ancestors shall have right thereto before ancestors of the next more remote generation.

- (2) References in the foregoing subsection to brothers or sisters include respectively brothers and sisters of the half blood as well as of the whole blood; and in the said subsection “prior relative”, in relation to any class of person mentioned in any paragraph of that subsection, means a person of any other class who, if he had survived the intestate, would have had right to the intestate estate or any of it by virtue of an earlier paragraph of that subsection or by virtue of any such paragraph and section 5 of this Act.

Textual Amendments

- F1** Words in s. 2(1)(e) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(2), 263(10)(c), [Sch. 28 para. 2\(a\)](#); S.S.I. 2005/604, {art. (2)(c)}
- F2** Words in s. 2(1)(e) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(2), 263(10)(c), [Sch. 28 para. 2\(b\)](#); S.S.I. 2005/604, {art. (2)(c)}

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Changes and effects yet to be applied to :

- s. 2(1)(e) repealed by [2024 asp 2 s. 77\(1\)\(b\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(1)(ab) inserted by [2024 asp 2 s. 77\(1\)\(a\)](#)