



Family Law Reform Act 1987

1987 CHAPTER 42

PART III

PROPERTY RIGHTS

18 Succession on intestacy

- (1) In Part IV of the Administration of Estates Act 1925 (which deals with the distribution of the estate of an intestate), references (however expressed) to any relationship between two persons shall be construed in accordance with section 1 above.
- (2) For the purposes of subsection (1) above and that Part of that Act, a person whose father and mother were not married to each other at the time of his birth shall be presumed not to have been survived by his father, or by any person related to him only through his father, unless the contrary is shown.
- (3) In section 50(1) of that Act (which relates to the construction of documents), the reference to Part IV of that Act, or to the foregoing provisions of that Part, shall in relation to an instrument inter vivos made, or a will or codicil coming into operation, after the coming into force of this section (but not in relation to instruments inter vivos made or wills or codicils coming into operation earlier) be construed as including references to this section.
- (4) This section does not affect any rights under the intestacy of a person dying before the coming into force of this section.

19 Dispositions of property

- (1) In the following dispositions, namely—
 - (a) dispositions inter vivos made on or after the date on which this section comes into force; and
 - (b) dispositions by will or codicil where the will or codicil is made on or after that date,

references (whether express or implied) to any relationship between two persons shall be construed in accordance with section 1 above.

- (2) It is hereby declared that the use, without more, of the word "heir" or "heirs" or any expression which is used to create an entailed interest in real or personal property does not show a contrary intention for the purposes of section 1 as applied by subsection (1) above.
- (3) In relation to the dispositions mentioned in subsection (1) above, section 33 of the Trustee Act 1925 (which specifies the trust implied by a direction that income is to be held on protective trusts for the benefit of any person) shall have effect as if any reference (however expressed) to any relationship between two persons were construed in accordance with section 1 above.
- (4) Where under any disposition of real or personal property, any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this section, devolve (as nearly as the law permits) along with a dignity or title of honour, then—
 - (a) whether or not the disposition contains an express reference to the dignity or title of honour; and
 - (b) whether or not the property or some interest in the property may in some event become severed from it,nothing in this section shall operate to sever the property or any interest in it from the dignity or title, but the property or interest shall devolve in all respects as if this section had not been enacted.
- (5) This section is without prejudice to section 42 of the Adoption Act 1976 (construction of dispositions in cases of adoption).
- (6) In this section "disposition" means a disposition, including an oral disposition, of real or personal property whether inter vivos or by will or codicil.
- (7) Notwithstanding any rule of law, a disposition made by will or codicil executed before the date on which this section comes into force shall not be treated for the purposes of this section as made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

20 No special protection for trustees and personal representatives

Section 17 of the Family Law Reform Act 1969 (which enables trustees and personal representatives to distribute property without having ascertained that no person whose parents were not married to each other at the time of his birth, or who claims through such a person, is or may be entitled to an interest in the property) shall cease to have effect.

21 Entitlement to grant of probate etc.

- (1) For the purpose of determining the person or persons who would in accordance with probate rules be entitled to a grant of probate or administration in respect of the estate of a deceased person, the deceased shall be presumed, unless the contrary is shown, not to have been survived—
 - (a) by any person related to him whose father and mother were not married to each other at the time of his birth; or

- (b) by any person whose relationship with him is deduced through such a person as is mentioned in paragraph (a) above.
- (2) In this section "probate rules" means rules of court made under section 127 of the Supreme Court Act 1981.
- (3) This section does not apply in relation to the estate of a person dying before the coming into force of this section.