

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 15: Family Property**

#### ***Section 199: Abolition of presumption of advancement***

##### **Effect**

623. This section abolishes the common law presumption of advancement. The abolition does not affect any transfer made before the provision comes into force.

##### **Background**

624. The presumption of advancement was a presumption that a man who transfers property to his wife, child or fiancée is making the recipient a gift of that property, unless there was evidence to the contrary. This presumption acted as an exception to the normal rule – that where one person transfers property to another without gaining anything in return, the recipient is presumed to be holding the property on trust for the transferor unless there is evidence that a gift was intended.
625. The presumption of advancement did not apply where a woman transferred property to her husband, child or fiancé.

##### **Example**

- A husband transfers property to his wife. It is presumed that she is to hold the property on trust for her husband, unless there is evidence that a gift was intended.