



# Administration of Estates Act 1925

## 1925 CHAPTER 23

### PART I

#### DEVOLUTION OF REAL ESTATE

#### **1 Devolution of real estate on personal representative**

- (1) Real estate to which a deceased person was entitled for an interest not ceasing on his death shall on his death, and notwithstanding any testamentary disposition thereof, devolve from time to time on the personal representative of the deceased, in like manner as before the commencement of this Act chattels real devolved on the personal representative from time to time of a deceased person.
- (2) The personal representatives for the time being of a deceased person are deemed in law his heirs and assigns within the meaning of all trusts and powers.
- (3) The personal representatives shall be the representative of the deceased in regard to his real estate to which he was entitled for an interest not ceasing on his death as well as in regard to his personal estate.

#### **2 Application to real estate of law affecting chattels real**

- (1) Subject to the provisions of this Act, all enactments and rules of law, and all jurisdiction of any court with respect to the appointment of administrators or to probate or letters of administration, or to dealings before probate in the case of chattels real, and with respect to costs and other matters in the administration of personal estate, in force before the commencement of this Act, and all powers, duties, rights, equities, obligations, and liabilities of a personal representative in force at the commencement of this Act with respect to chattels real, shall apply and attach to the personal representative and shall have effect with respect to real estate vested in him, and in particular all such powers of disposition and dealing as were before the commencement of this Act exercisable as respects chattels real by the survivor or survivors of two or more personal representatives, as well as by a single personal representative, or by all the personal representatives together, shall be exercisable by

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*Status: This is the original version (as it was originally enacted).*

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the personal representatives or representative of the deceased with respect to his real estate.

- (2) Where as respects real estate there are two or more personal representatives, a conveyance of real estate devolving under this Part of this Act shall not, save as otherwise provided as respects trust estates including settled land, be made without the concurrence therein of all such representatives or an order of the court, but where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance of the real estate may be made by the proving executor or executors for the time being, without an order of the court, and shall be as effectual as if all the persons named as executors had concurred therein.
- (3) Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real estate shall not, save as hereinafter provided, affect—
  - (a) any rule as to marshalling or as to administration of assets;
  - (b) the beneficial interest in real estate under any testamentary disposition;
  - (c) any mode of dealing with any beneficial interest in real estate, or the proceeds of sale thereof;
  - (d) the right of any person claiming to be interested in the real estate to take proceedings for the protection or recovery thereof against any person other than the personal representative.

### **3 Interpretation of Part I**

- (1) In this Part of this Act "real estate" includes—
  - (i) Chattels real, and land in possession, remainder, or reversion, and every interest in or over land to which a deceased person was entitled at the time of his death; and
  - (ii) Real estate held on trust (including settled land) or by way of mortgage or security, but not money to arise under a trust for sale of land, nor money secured or charged on land.
- (2) A testator shall be deemed to have been entitled at his death to any interest in real estate passing under any gift contained in his will which operates as an appointment under a general power to appoint by will, or operates under the testamentary power conferred by statute to dispose of an entailed interest.
- (3) An entailed interest of a deceased person shall (unless disposed of under the testamentary power conferred by statute) be deemed an interest ceasing on his death, but any further or other interest of the deceased in the same property in remainder or reversion which is capable of being disposed of by his will shall not be deemed to be an interest so ceasing.
- (4) The interest of a deceased person under a joint tenancy where another tenant survives the deceased is an interest ceasing on his death.
- (5) On the death of a corporator sole his interest in the corporation's real and personal estate shall be deemed to be an interest ceasing on his death, and shall devolve to his successor.

This subsection applies on the demise of the Crown as respects all property, real and personal, vested in the Crown as a corporation sole.