



# Administration of Estates Act 1925

## 1925 CHAPTER 23

### PART V

#### SUPPLEMENTAL

#### 53 General savings

- (1) Nothing in this Act shall derogate from the powers of the High Court which exist independently of this Act or alter the distribution of business between the several divisions of the High Court, or operate to transfer any jurisdiction from the High Court to any other court.
- (2) Nothing in this Act shall affect any unrepealed enactment in a public general Act dispensing with probate or administration as respects personal estate not including chattels real.
- (3) Nothing in this Act shall—
  - (a) alter any death duty payable in respect of real estate or impose any new duty thereon:
  - (b) render any real estate liable to legacy duty or exempt it from succession duty:
  - (c) alter the incidence of any death duties.

#### 54 Application of Act

Save as otherwise expressly provided, this Act does not apply in any case where the death occurred before the commencement of this Act.

#### 55 Definitions

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

- (1) (i) " Administration " means, with reference to the real and personal estate of a deceased person, letters of administration, whether general or limited, or with the will annexed or otherwise:
- (ii) " Administrator " means a person to whom administration is granted:
- (iii) " Conveyance " includes a mortgage, charge by way of legal mortgage, lease, assent, vesting, declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will, and "convey" has a corresponding meaning, and " disposition " includes a " conveyance" also a devise bequest and an appointment of property contained in a will, and " dispose of " has a corresponding meaning:
- (iv) " the Court " means the High Court, and also the county court, where that court has jurisdiction, and as respects the administration of estates " court" also includes the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham where those courts respectively have jurisdiction:
- (v) " Income " includes rents and profits :
- (vi) " Intestate " includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate:
- (vii) " Legal estates " mean the estates charges and interests in or over land (subsisting or created at law) which are by statute authorised to subsist or to be created at law; and "equitable interests" mean all other interests and charges in or over land or in the proceeds of sale thereof:
- (viii) " Lunatic " includes a lunatic whether so found or not, and in relation to a lunatic not so found; "committee" includes a person on whom the powers of a committee are conferred under section one of the Lunacy Act, 1908; and "defective" includes every person affected by the provisions of section one hundred and sixteen of the Lunacy Act, 1890, as extended by section sixty-four of the Mental Deficiency Act, 1913, and for whose benefit a receiver has been appointed:
- (ix) " Pecuniary legacy " includes an annuity, a general legacy, a demonstrative legacy so far as it is not discharged out of the designated property, and any other general direction by a testator for the payment of money, including all death duties free from which any devise, bequest, or payment is made to take effect:
- (x) " Personal chattels " mean carriages, horses, stable furniture and effects (not used for business purposes), motor cars and accessories (not used for business purposes), garden effects, domestic animals, plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament, musical and scientific instruments and apparatus, wines, liquors and consumable stores, but do not include any chattels used at the death of the intestate for business purposes nor money or securities for money:
- (xi) " Personal representative " means the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court, and " executor " includes a person deemed to be appointed executor as respects settled land:
- (xii) " Possession " includes the receipt of rents and profits or the right to receive the same, if any :

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

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- (xiii) " Prescribed " means prescribed by rules of court or by probate rules made pursuant to this Act:
  - (xiv) " Probate " means the probate of a will :
  - (xv) " Probate judge " means the President of the Probate, Divorce and Admiralty Division of the High Court:
  - (xvi) " Probate rules " mean rules and orders made by the Probate Judge for regulating the procedure and practice of the High Court in regard to non-contentious or common form probate business:
  - (xvii) " Property " includes a thing in action and any interest in real or personal property:
  - (xviii) " Purchaser " means a lessee, mortgagee or other person who in good faith acquires an interest in property for valuable consideration, also an intending purchaser and "valuable consideration" includes marriage, but does not include a nominal consideration in money:
  - (xix) " Real estate " save as provided in Part IV. of this Act means real estate, including chattels real, which by virtue of Part I. of this Act devolves on the personal representative of a deceased person:
  - (xx) " Representation " means the probate of a will and administration, and the expression " taking out representation " refers to the obtaining of the probate of a will or of the grant of administration:
  - (xxi) " Rent " includes a rent service or a rent charge, or other rent, toll, duty, or annual or periodical payment in money or money's worth, issuing out of or charged upon land, but does not include mortgage interest; and " rentcharge " includes a fee farm rent:
  - (xxii) " Rules of Court " include, in relation to non-contentious or common form probate business, probate rules.
  - (xxiii) " Securities " include stocks, funds, or shares:
  - (xxiv) " Tenant for life," " statutory owner," "land," "settled land," "settlement," "trustees of the settlement," "term of years absolute/" " death duties," and " legal mortgage," have the same meanings as in the Settled Land Act, 1925, and " entailed interest" and " charge by way of legal " mortgage " have the same meanings as in the Law of Property Act, 1925:
  - (xxv) " Treasury solicitor " means the solicitor for the affairs of His Majesty's Treasury, and includes the solicitor for the affairs of the Duchy of Lancaster:
  - (xxvi) " Trust corporation " means the public trustee or a corporation either appointed by the court in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee:
  - (xxvii) " Trust for sale, " in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without a power at discretion to postpone the sale; and " power to postpone a sale" means power to postpone in the exercise of a discretion:
  - (xxviii) " Will " includes codicil.
- (2) References to a child or issue living at the death of any person include a child or issue en ventre sa mere at the death.
- (3) References to the estate of a deceased person include property over which the deceased exercises a general power of appointment (including the statutory power to dispose of entailed interests) by his will.

**56 Repeal**

The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, but as respects the Acts mentioned in Part I. of that Schedule only so far as they apply to deaths occurring after the commencement of this Act.

**57 Application to Crown**

- (1) The provisions of this Act bind the Crown and the Duchy of Lancaster, and the Duke of Cornwall for the time being, as respects the estates of persons dying after the commencement of this Act, but not so as to affect the time within which proceedings for the recovery of real or personal estate vesting in or devolving on His Majesty in right of His Crown, or His Duchy of Lancaster, or on the Duke of Cornwall, may be instituted.
- (2) Nothing in this Act in any manner affects or alters the descent or devolution of any property for the time being vested in His Majesty either in right of the Crown or of the Duchy of Lancaster or of any property for the time being belonging to the Duchy of Cornwall.

**58 Short title, commencement and extent**

- (1) This Act may be cited as the Administration of Estates Act, 1925.
- (2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.
- (3) This Act extends to England and Wales only.