

SCHEDULES

SECOND SCHEDULE

RIGHTS OF SURVIVING SPOUSE [F1OR CIVIL PARTNER]AS RESPECTS THE MATRIMONIAL [F1OR CIVIL PARTNERSHIP]HOME

Textual Amendments

F1 Words in Sch. 2 heading inserted (E.W.) (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(2\), Sch. 4 para. 13\(4\)\(b\)](#); S.I. 2005/3175, Sch. 1

- 3 (1) The right conferred by paragraph 1 of this Schedule—
- (a) shall not be exercisable after the expiration of twelve months from the first taking out of representation with respect to the intestate's estate;
 - (b) shall not be exercisable after the death of the surviving [F1spouse or civil partner];
 - (c) shall be exercisable, except where the surviving [F1spouse or civil partner] is the sole personal representative, by notifying the personal representative (or, where there are two or more personal representatives of whom one is the surviving [F1spouse or civil partner], all of them except the surviving [F1spouse or civil partner]) in writing.
- (2) A notification in writing under paragraph (c) of the foregoing sub-paragraph shall not be revocable except with the consent of the personal representative; but the surviving [F1spouse or civil partner] may require the personal representative to have the said interest in the dwelling-house valued in accordance with section forty-one of the principal Act and to inform him or her of the result of that valuation before he or she decides whether to exercise the right.
- (3) [F2The court may extend the period of 12 months referred to in sub-paragraph (1)(a) if the surviving spouse or civil partner applies for it to be extended and satisfies the court that a period limited to 12 months would operate unfairly—
- (a) in consequence of the representation first taken out being probate of a will subsequently revoked on the ground that the will was invalid, or
 - (b) in consequence of a question whether a person had an interest in the estate, or as to the nature of an interest in the estate, not having been determined at the time when representation was first taken out, or
 - (c) in consequence of some other circumstances affecting the administration or distribution of the estate.
- (4) For the purposes of the construction of the references in this paragraph to the first taking out of representation, there shall be left out of account—
- (a) a grant limited to settled land or to trust property,
 - (b) any other grant that does not permit any of the estate to be distributed,

Changes to legislation: There are currently no known outstanding effects for the Intestates' Estates Act 1952, Paragraph 3. (See end of Document for details)

- (c) a grant limited to real estate or to personal estate, unless a grant limited to the remainder of the estate has previously been made or is made at the same time,
 - (d) a grant, or its equivalent, made outside the United Kingdom (but see sub-paragraph (5)).
- (5) A grant sealed under section 2 of the Colonial Probates Act 1892 counts as a grant made in the United Kingdom for the purposes of sub-paragraph (4), but is to be taken as dated on the date of sealing.]

Textual Amendments

- F1** Words in Sch. 2 substituted (E.W.) (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(2), [Sch. 4 para. 13\(2\)](#); S.I. 2005/3175, Sch. 1
- F2** Sch. 2 para 3(3)-(5) substituted (E.W.) (1.10.2014) for Sch. 2 para. 3(3) by [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), [Sch. 4 para. 2\(3\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2

Changes to legislation:

There are currently no known outstanding effects for the Intestates' Estates Act 1952, Paragraph 3.