



Wills Act 1837

1837 CHAPTER 26 7 Will 4 and 1 Vict

[^{F1}33 Gifts to children or other issue who leave issue living at the testator's death shall not lapse.

(1) Where—

- (a) a will contains a devise or bequest to a child or remoter descendant of the testator; and
- (b) the intended beneficiary dies before the testator, leaving issue; and
- (c) issue of the intended beneficiary are living at the testator's death,

then, unless a contrary intention appears by the will, the devise or bequest shall take effect as a devise or bequest to the issue living at the testator's death.

(2) Where—

- (a) a will contains a devise or bequest to a class of persons consisting of children or remoter descendants of the testator; and
- (b) a member of the class dies before the testator, leaving issue; and
- (c) issue of that member are living at the testator's death,

then, unless a contrary intention appears by the will, the devise or bequest shall take effect as if the class included the issue of its deceased member living at the testator's death.

(3) Issue shall take under this section through all degrees, according to their stock, in equal shares if more than one, any gift or share which their parent would have taken and so that [^{F2}(subject to section 33A)]no issue shall take whose parent is living at the testator's death and so capable of taking.

(4) For the purposes of this section—

- (a) the illegitimacy of any person is to be disregarded; and
- (b) a person conceived before the testator's death and born living thereafter is to be taken to have been living at the testator's death.]

Textual Amendments

F1 S. 33 substituted by [Administration of Justice Act 1982 \(c.53, SIF 116:5\)](#), **ss. 19, 73(6)**

Changes to legislation: There are currently no known outstanding effects for the Wills Act 1837, Section 33. (See end of Document for details)

- F2** Words in s. 33(3) inserted (E.W.) (1.2.2012) by [Estates of Deceased Persons \(Forfeiture Rule and Law of Succession\) Act 2011 \(c. 7\), ss. 2\(3\), 4\(2\)](#) (with s. 4(4)); S.I. 2011/2913, art. 2

Modifications etc. (not altering text)

- C1** S. 33 excluded by [Finance Act 1958 \(c. 56\), s. 29\(2\)](#), (which s. 29(2) is repealed in relation to deaths occurring after 13.4.1975 and, so far as regards certain duties in relation to any death, by [Finance Act 1975 \(c. 7, SIF 99:3\), ss. 52\(2\), 59, Sch. 13 Pt. I](#), note (with a saving in s. 52(3) in relation to repayment or allowance in respect of certain sums paid before 13. 3. 1975 on account))

Changes to legislation:

There are currently no known outstanding effects for the Wills Act 1837, Section 33.