

5.—(1) Where under this Part the residuary estate of an intestate, or any part thereof, is directed to be held on the statutory trusts for the issue of the intestate, the same shall be held upon the following trusts, namely—

Statutory trusts in favour of issue and other classes of relatives of intestate.

- (i) in trust, in equal shares if more than one, for all or any the children or child of the intestate, living at the death of the intestate, who attain the age of eighteen years or marry under that age, and for all or any of the issue living at the death of the intestate who attain the age of eighteen years or marry under that age of any child of the intestate who predeceases the intestate, such issue to take through all degrees, according to their stocks, in equal shares if more than one, the share which their parent would have taken if living at the death of the intestate, and so that no issue shall take whose parent is living at the death of the intestate and so capable of taking;
- (ii) the statutory provisions which relate to maintenance and accumulation of surplus income, shall apply, but when an infant marries, such infant shall be entitled to give valid receipts for the income of the infant's share or interest;
- (iii) where the property held on the statutory trusts for issue is divisible into shares, then any money or property which, by way of advancement or on the marriage of a child of the intestate, has been paid to such child by the intestate or settled by the intestate for the benefit of such child (including any life or less interest and including property covenanted to be paid or settled) shall, subject to any contrary intention expressed or appearing from the circumstances of the case, be taken as being so paid or settled in or towards satisfaction of the share of such child or the share which such child would have

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taken if living at the death of the intestate, and shall be brought into account, at a valuation (the value to be reckoned as at the death of the intestate), in accordance with the requirements of the personal representatives;

- (iv) the personal representatives may permit any infant contingently interested to have the use and enjoyment of any personal chattels in such manner and subject to such conditions (if any) as the personal representatives may consider reasonable, and without being liable to account for any consequential loss.

(1A) Notwithstanding subsection (1) and that the interest of an infant may not be vested, trustees or an administrator may from time to time pay or apply any capital money subject to the trust for the advancement or benefit of any infant beneficiary in such manner as they may, in their absolute discretion think fit, so, however, that—

- (a) the money so paid or applied for the advancement or benefit of the infant beneficiary shall not exceed in total an amount equal to one-half of the amount which would be payable had the interest of the infant beneficiary vested; and
- (b) if the interest of the infant beneficiary vests in the trust property the money so paid or applied shall be brought into account as part of the share of that beneficiary; and
- (c) no such payment or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied unless such person is in existence and of full age and consents in writing to such payment or application.

(1B) Subsection (1A) shall apply to all trusts existing at the 28th day of March, 1988.

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- (b) if the interest of the infant beneficiary vests in the trust property the money so paid or applied shall be brought into account as part of the share of that beneficiary; and
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(1B) Subsection (1A) shall apply to all trusts existing at the 28th day of March, 1988.

(2) If the trusts in favour of the issue of the intestate fail by reason of no child or other issue attaining an absolutely vested interest—

- (a) the residuary estate of the intestate and the income thereof and all statutory accumulations, if any, of the income thereof, or so much thereof as may not have been paid or applied under any power affecting the same, shall go, devolve and be held under the provisions of this Part as if the intestate had died without leaving issue living at the death of the intestate;
- (b) references in this Part to the intestate “leaving no issue” shall be construed as “leaving no issue who attain an absolutely vested interest”;
- (c) references in this Part to the intestate “leaving issue” or “leaving a child or other issue” shall be construed as “leaving issue who attain an absolutely vested interest”.

(3) Where under this Part the residuary estate of an intestate or any part thereof is directed to be held on the statutory trusts for any class of relatives of the intestate, other than issue of the intestate, the same shall be held on trusts corresponding to the statutory trusts for the issue of the intestate (other than the provision for bringing any money or property into account) as if such trusts (other than as aforesaid) were repeated with the substitution of references to the members or member of that class for references to the children or child of the intestate.

6. For the purposes of this Part the residuary estate of the intestate, or any part thereof, directed to be held upon the “statutory trusts” shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits

Meaning of the statutory trusts.