

(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.

until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of the persons (including an incumbrancer of a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.

Where—

- (a) an undivided share was subject to a settlement; and
- (b) the settlement remains subsisting in respect of other property; and
- (c) the trustees thereof are not the same persons as the trustees for sale,

then the statutory trusts include a trust for the trustees for sale to pay the proper proportion of the net proceeds of sale or other capital money attributable to the share to the trustees of the settlement to be held by them as capital money arising under the Settled Land Act.

Powers of personal representative to raise sums in the interest of a surviving spouse.

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7. The personal representative may, on the security of the whole or part of the residuary estate of the intestate (other than the personal chattels), raise—

- (a) the whole or any part of any amount payable to a surviving spouse pursuant to paragraphs (b) and (c) of Item 1 of the Table of Distribution; and
- (b) the amount, if any, properly required for the payment of the costs of the transaction.

Application to cases of partial intestacy.

8. Where any person dies leaving a will effectively disposing of part of his property this Part shall have effect as respects the part of his property not so disposed of subject to the provisions contained in the will and subject to the following modifications—