

# **Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice with the consent of Lord Hunt of Wirral, the Member in charge of the Bill, are published separately as HL Bill 53 – EN.

# **Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Bill**

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## CONTENTS

- 1 Disclaimer or forfeiture on intestacy
- 2 Disclaimer or forfeiture of a gift under a will
- 3 Death of a single parent under 18
- 4 Short title, commencement, application and extent

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# B I L L

TO

Amend the law relating to the distribution of the estates of deceased persons; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **1 Disclaimer or forfeiture on intestacy**

(1) Part 4 of the Administration of Estates Act 1925 (distribution of residuary estate) is amended as follows.

(2) After section 46 (succession to real and personal estate on intestacy) insert—

**“46A Disclaimer or forfeiture on intestacy** 5

(1) This section applies where a person—

- (a) is entitled in accordance with section 46 to an interest in the residuary estate of an intestate but disclaims it, or
- (b) would have been so entitled had the person not been precluded by the forfeiture rule from acquiring it. 10

(2) The person is to be treated for the purposes of this Part as having died immediately before the intestate.

(3) But in a case within subsection (1)(b), subsection (2) does not affect the power conferred by section 2 of the Forfeiture Act 1982 (power of court to modify the forfeiture rule). 15

(4) In this section “forfeiture rule” has the same meaning as in the Forfeiture Act 1982.”.

(3) In section 47(1)(i) (provision that no issue with a parent alive at the intestate’s death may inherit) after “and so that” insert “(subject to section 46A)”.

(4) After section 47(4) insert— 20

“(4A) Subsections (2) and (4) are subject to section 46A.”.

## 2 Disclaimer or forfeiture of a gift under a will

(1) The Wills Act 1837 is amended as follows.

(2) After section 33 insert—

### “33A Disclaimer or forfeiture of gift

(1) This section applies where a will contains a devise or bequest to a person who— 5

(a) disclaims it, or

(b) has been precluded by the forfeiture rule from acquiring it.

(2) The person is, unless a contrary intention appears by the will, to be treated for the purposes of this Act as having died immediately before the testator. 10

(3) But in a case within subsection (1)(b), subsection (2) does not affect the power conferred by section 2 of the Forfeiture Act 1982 (power of court to modify the forfeiture rule).

(4) In this section “forfeiture rule” has the same meaning as in the Forfeiture Act 1982.”. 15

(3) In section 33(3) (provision that no issue with a parent alive at the testator’s death may inherit) after “and so that” insert “(subject to section 33A)”.

## 3 Death of a single parent under 18

In section 47 of the Administration of Estates Act 1925 (statutory trusts in favour of issue and other classes of relatives of intestate) after subsection (4A) insert— 20

“(4B) Subsections (4C) and (4D) apply if a beneficiary under the statutory trusts—

(a) fails to attain an absolutely vested interest because the beneficiary dies without having reached 18 and without having married or formed a civil partnership, and 25

(b) dies leaving issue.

(4C) The beneficiary is to be treated for the purposes of this Part as having died immediately before the intestate. 30

(4D) The residuary estate (together with the income from it and any statutory accumulations of income from it) or so much of it as has not been paid or applied under a power affecting it is to devolve accordingly.”.

## 4 Short title, commencement, application and extent 35

(1) This Act may be cited as the Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011.

(2) This Act (apart from this section) comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(3) But the order may not provide for this Act to come into force before the end of three months beginning with the day on which it is passed. 40

- (4) This Act does not apply in the case of a death that occurs before the commencement of sections 1, 2 and 3 of this Act.
- (5) This Act extends to England and Wales only.

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To amend the law relating to the distribution of the estates of deceased persons; and for connected purposes.

*Brought from the Commons on 7th March 2011*

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