

Inheritance (Cohabitants) Bill [HL]

CONTENTS

- 1 Succession to estate on intestacy
- 2 Intestacy: rights as respects the home
- 3 Application for financial provision from deceased's estate
- 4 Minor and consequential amendments
- 5 Short title, commencement, application and extent

Schedule – Minor and consequential amendments

A

B I L L

TO

Make provision about the property of deceased persons who are survived by a cohabitant.

BE 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 Succession to estate on intestacy

- (1) Section 46 of the Administration of Estates Act 1925 (succession to real and personal estate on intestacy) is amended as follows.
- (2) In subsection (1)(i) (cases where the intestate leaves a spouse or civil partner) —
- (a) in the words before the Table, for “or civil partner,” substitute “, civil partner or qualifying cohabitant,” and 5
- (b) in the Table —
- (i) for “the surviving spouse or civil partner”, where first occurring, substitute “the surviving spouse, civil partner or qualifying cohabitant (“the survivor”)”, and 10
- (ii) for each subsequent occurrence of “the surviving spouse or civil partner” substitute “the survivor”.
- (3) In subsections (1)(ii) to (v) and (2A) to (4) (which make further provision about the rights of spouses, civil partners and others on intestacy) for “or civil partner” (in each place) substitute “, civil partner or qualifying cohabitant”. 15
- (4) After subsection (2A) insert —
- “(2B) Where an intestate and the intestate’s spouse or civil partner have died in circumstances rendering it uncertain which of them survived the other, this section has effect as if the intestate did not leave any qualifying cohabitant.” 20
- (5) After subsection (4) insert —
- “(5) A person is a qualifying cohabitant in relation to an intestate only if —
- (a) the intestate was neither married nor in a civil partnership immediately before death, and

- (b) the first or second condition is met in relation to the person.
- (6) The first condition is that during the whole of the period of five years ending immediately before the intestate's death the person was living as the intestate's spouse or civil partner and in the same household as the intestate. 5
- (7) The second condition is that—
- (a) the person is the other parent of a child of the intestate born on or before the date of the intestate's death,
- (b) at that date the child is living in the same household as the person, and 10
- (c) during the whole of the period of two years ending immediately before the intestate's death the person was living as the intestate's spouse or civil partner and in the same household as the intestate."
- 2 Intestacy: rights as respects the home 15**
- (1) Schedule 2 to the Intestates' Estates Act 1952 (rights of surviving spouse or civil partner as respects the matrimonial or civil partnership home) is amended as follows.
- (2) Before paragraph 1 there is inserted—
- “A1 (1) This Schedule applies where a person dies intestate and leaves a spouse, civil partner or qualifying cohabitant. 20
- (2) In this Schedule—
- “qualifying cohabitant” has the meaning given by section 46(5) of the principal Act;
- “the survivor” means the surviving spouse, civil partner or qualifying cohabitant.” 25
- (3) In paragraphs 1 to 6, for “the surviving spouse or civil partner” (in each place) there is substituted “the survivor”.
- (4) In paragraph 6(2) for “a surviving spouse or civil partner” there is substituted “a surviving spouse, civil partner or qualifying cohabitant”. 30
- (5) For the title there is substituted—
- “RIGHTS OF SURVIVING SPOUSE, CIVIL PARTNER OR QUALIFYING COHABITANT AS RESPECTS THE HOME”.
- 3 Application for financial provision from deceased's estate**
- In section 1 of the Inheritance (Provision for Family and Dependants) Act 1975 for subsections (1A) and (1B) (certain persons entitled to apply for provision) there is substituted— 35
- “(1A) This subsection applies to any person who during the whole of the period of two years ending immediately before the date when the deceased died was living— 40
- (a) as the deceased's husband or wife or civil partner, and
- (b) in the same household as the deceased.

- (1B) This subsection applies to a person who is the other parent of a child of the deceased if at the date when the deceased died the person was living—
- (a) as the deceased’s husband or wife or civil partner, and
 - (b) in the same household as the deceased. 5
- (1C) The reference in subsection (1B) to a child includes—
- (a) a child born alive who died before the deceased, and
 - (b) a child en ventre sa mere at the date of the deceased’s death (whether or not the child is subsequently born alive).
- (But this does not affect the generality of the definition of “child” in section 25(1)).” 10

4 Minor and consequential amendments

The Schedule to this Act, which makes minor amendments and amendments consequential on other provisions of this Act, has effect.

5 Short title, commencement, application and extent 15

- (1) This Act may be cited as the Inheritance (Cohabitants) Act 2012.
- (2) This section comes into force on the day on which this Act is passed, but otherwise this Act comes into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) An order under subsection (2) may appoint different days for different purposes. 20
- (4) This Act applies only in relation to deaths occurring after the coming into force of this Act (apart from this section).
- (5) This Act extends to England and Wales only.

SCHEDULE

Section 4(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

Administration of Estates Act 1925

- | | | |
|---|--|----|
| 1 | (1) The Administration of Estates Act 1925 is amended as follows. | |
| | (2) In section 47A (right of surviving spouse or civil partner to have own life interest redeemed), in subsection (1) and the proviso to subsection (5), for “or civil partner” substitute “, civil partner or qualifying cohabitant”. | 5 |
| | (3) In section 48(2) (powers of personal representative in respect of interests of surviving spouse or civil partner) in paragraphs (a) and (b), for “or civil partner” substitute “, civil partner or qualifying cohabitant”. | 10 |
| | (4) In section 55(1) (definitions), after paragraph (iv) there is inserted –
“(iva) “Qualifying cohabitant” has the meaning given by section 46(5):”. | |

Intestates’ Estates Act 1952

- | | | |
|---|--|----|
| 2 | In the Intestates’ Estates Act 1952, for section 5 (rights of surviving spouse or civil partner as respects the matrimonial home) substitute – | 15 |
| | <p>“5 Rights of surviving spouse, civil partner or qualifying cohabitant as respects the home</p> <p style="padding-left: 40px;">The Second Schedule to this Act (rights of surviving spouse, civil partner or qualifying cohabitant as respects the home) has effect.”</p> | 20 |

Family Provision Act 1966

- | | | |
|---|--|----|
| 3 | In the Family Provision Act 1966, in section 1(1) (increase of net sum payable to surviving spouse or civil partner on intestacy), for “or civil partner” substitute “, civil partner or qualifying cohabitant (within the meaning given by section 46(5) of that Act)”. | 25 |
|---|--|----|

Law Reform (Succession) Act 1995

- | | | |
|---|---|--|
| 4 | In consequence of the amendment made by section 3, omit section 2(3) of the Law Reform (Succession) Act 1995. | |
|---|---|--|

Civil Partnership Act 2004

- | | | |
|---|---|----|
| 5 | (1) Schedule 4 to the Civil Partnership Act 2004 is amended as follows. | 30 |
| | (2) In consequence of the amendments made by section 2 and paragraph 2 of this Schedule, omit paragraph 13. | |
| | (3) In consequence of the amendment made by section 3, omit paragraph 15(5). | |

Inheritance (Cohabitants) Bill [HL]

A

B I L L

To make provision about the property of deceased persons who are survived by a cohabitant.

Lord Lester of Herne Hill

Ordered to be Printed, 10th May 2012

© Parliamentary copyright House of Lords 2012

This publication may be reproduced under the terms of the Parliamentary Click-Use Licence, available online through The National Archives website at www.nationalarchives.gov.uk/information-management/our-services/parliamentary-licence-information.htm

*Enquiries to The National Archives, Kew, Richmond, Surrey, TW9 4DU;
email: psi@nationalarchives.gsi.gov.uk*

£x.xx

HL Bill 5

(xxxxx)

55/2

xxxbarxxx