REGULATIONS, DATED 1ST AUGUST, 1956, MADE BY THE MINISTRY OF HEALTH AND LOCAL GOVERNMENT UNDER ARTICLE 4(*b*) OF PART IV OF THE FIRST SCHEDULE AND ARTICLE 6 OF THE SECOND SCHEDULE TO THE HEALTH SERVICES ACT (NORTHERN IRELAND), 1948.

1956. No. 119 [C]

The Ministry of Health and Local Government, in exercise of the powers conferred by Article 4(*b*) of Part IV of the First Schedule, and Article 6 of the Second Schedule to the Health Services Act (Northern Ireland), 1948, in conjunction with the Ministry of Finance, hereby makes the following regulations:—

1. These Regulations may be cited as the Health Services (Travelling Expenses) (Amendment) (No. 2) Regulations (Northern Ireland), 1956, and shall be deemed to have had effect from the first day of April, 1956.

2. Part II of the Schedule to the Health Services (Travelling Expenses) Regulations (Northern Ireland), 1953(a), as amended by the Health Services (Travelling Expenses) (Amendment) Regulations (Northern Ireland), 1956(b) shall be further amended as follows:—

(*a*) in paragraph 1, for the figure "35s. 6d." there shall be substituted the figure "36s. 6d." and for the figure "42s." there shall be substituted the figure "48s. 6d.";

(*b*) in paragraph 3, for the figure "10s." there shall be substituted the figure "12s.".

Sealed with the Official Seal of the Ministry of Health and Local Government this first day of August, one thousand nine hundred and fifty-six, in the presence of

(L.S.)

*Dehra Parker,*
Minister of Health and Local Government.

Sealed with the Official Seal of the Ministry of Finance this second day of August, one thousand nine hundred and fifty-six, in the presence of

(L.S.)

*George B. Hanna,*
Minister of Finance.

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## HIGH COURT OF JUSTICE IN NORTHERN IRELAND QUEEN'S BENCH DIVISION (PROBATE)

1956. No 29. [NC]

DIRECTIONS, DATED THE 15TH DAY OF FEBRUARY, 1956, OF THE PROBATE JUDGE GIVEN UNDER SECTION 20 OF THE ADMINISTRATION OF ESTATES ACT (NORTHERN IRELAND), 1955.

Whereas section twenty of the Administration of Estates Act (Northern Ireland), 1955, provides, inter alia, that the High Court of Justice in Northern Ireland shall, notwithstanding any existing

(a) S.R. & O. 1953. No. 159. (b) S.R. & O. 1956. No. 38.

enactment or rule of law to the contrary, have power to grant letters of administration (with or without will annexed) of the estate of a deceased person or of any part of such estate, and shall have a discretion as to the person to whom any such letters of administration may be granted, and that such discretion shall be exercised in accordance with any general or special directions given by the Probate Judge:

Now, therefore, I the Right Honourable John Clarke, Baron MacDermott, being the Probate Judge in the said Act referred to, hereby give the following directions as to whom letters of administration (with or without will annexed) shall be granted as respects the estates of persons dying on or after the 1st day of January, 1956, that being the date on which the said Act came into operation.

Dated the 15th day of February, 1956.

*MacDermott.*

1. These directions shall come into operation forthwith.

2. In these directions unless the context otherwise requires—

"The Principal Act" means the Administration of Estates Act (Northern Ireland), 1955;

"The Principal Probate Registrar" means the Chief Registrar, Assistant Registrar, or in their absence, the Deputy-Assistant Registrar, of the Principal Probate Registry, or such officer as may from time to time be appointed to exercise their powers and functions and perform their duties;

"The Registrar" means the Chief Registrar, Assistant Registrar or Deputy-Assistant Registrar, of the Principal Probate Registry, or the Registrar of the Londonderry District Probate Registry, or such officer as may from time to time be appointed to exercise their powers and functions and perform their duties;

"Trust Corporation" means a Trust Corporation as defined by sub-section (1) of section four of the Probates and Letters of Administration Act (Northern Ireland), 1933, as amended by sub-section (2) of section twenty-eight of the Principal Act;

"Will" includes a nuncupative will and any testamentary document or copy or reconstruction thereof.

*Order of priority for a grant in case of intestacy where the deceased died on or after the 1st day of January, 1956, wholly intestate.*

3.—(1) Where the deceased died on or after the 1st day of January, 1956, wholly intestate and domiciled in Northern Ireland, the persons having a beneficial interest in the estate of the deceased shall be entitled to a grant of administration in the following order of priority, namely:—

(i) The surviving spouse;

(ii) The child or children of the deceased (including any persons entitled by virtue of any enactment to be treated as if they were the children of the deceased born in lawful wedlock); or the issue (taking per stirpes) of any child who has died during the lifetime of the deceased;

(iii) The father or mother of the deceased or, in the case of an illegitimate person who died without having been legitimated, the mother;

(iv) Brothers and sisters of the deceased (whether of the whole or half-blood); or the issue (taking per stirpes) of any deceased brother or sister (whether of the whole or half-blood) who has died during the lifetime of the deceased.

(2) If the deceased died wholly intestate leaving no spouse and if no person in any of the classes mentioned in the preceding sub-paragraphs (ii) to (iv) of this direction has survived the deceased the persons hereinafter described shall, if they have a beneficial interest in the estate of the deceased, be entitled to a grant in the following order of priority, namely:—

(i) Grandparents;

(ii) Uncles and aunts (whether of the whole or half-blood); or the issue (taking per stirpes) of any uncle or aunt (whether of the whole or half-blood) who has died during the lifetime of the deceased;

(iii) Great-grandparents;

(iv) Grand-uncles and grand-aunts (whether of the whole or half-blood);

(v) Great-great-grandparents;

(vi) Great-grand-uncles and great-grand-aunts (whether of the whole or half-blood); or children of grand-uncles and of grand-aunts (whether of the whole or half-blood);

(vii) Great-great-great-grandparents;

(viii) Children of the children of grand-uncles and of grand-aunts (whether of the whole or half-blood); or children of great-grand-uncles and of great-grand-aunts (whether of the whole or half-blood); or uncles or aunts (whether of the whole or half-blood) of great-grandparents;

(ix) Other next of kin of nearest degree (whether of the whole or half-blood).

(3) The personal representative of any of the persons hereinbefore mentioned shall have the same right to a grant as the person whom he represents, subject to paragraph 2 of direction 7 which provides that live interests be preferred to dead interests.

(4) Where there are conflicting claims for a grant among the members of a class entitled to administration, the nearer in kin to the deceased of that class shall be preferred to the more remote unless the Principal Probate Registrar otherwise directs.

(5) In default of any person having a beneficial interest in the estate of the deceased, the nominee of Her Majesty, under section 3 of the Northern Ireland (Miscellaneous Provisons) Act, 1928, shall be entitled to a grant.

(6) If all persons entitled to a grant under the foregoing provisions of this direction have been cleared off, a grant may be made to a creditor of the deceased, or subject to paragraph 2 of direction 7 the personal representative of a creditor, or if the Registrar so directs, to any person who, notwithstanding that he has no immediate beneficial interest in the estate, may have a beneficial interest in the event of an accretion thereto.

(7) The provisions of the Adoption of Children Act (Northern Ireland), 1950, shall apply in determining the title to a grant as they apply to the devolution of property on intestacy.

*Order of priority for a grant where the deceased died on or after the 1st day of January, 1956, leaving a will.*

**4.** Where the deceased died on or after the 1st day of January, 1956, domiciled in Northern Ireland, leaving a will appointing no executor, or appointing an executor or executors who have been cleared off by death, renunciation, citation, or otherwise, the person or persons entitled to a grant of administration with will annexed shall be determined in accordance with the following order of priority, namely:—

(i) Any residuary legatee or devisee holding in trust for any other person;

(ii) any residuary legatee or devisee for life;

(iii) Any other residuary legatee or devisee or, subject to paragraph 2 of direction 7 which provides that live interests be preferred to dead interests, the personal representative of any such residuary legatee or devisee; or where the residue is not wholly disposed of by the will, any person (other than a creditor) entitled to a grant in the event of a total intestacy according to the order of priority set out in direction 3 if such person has an interest in the undisposed of residue:

Provided that where the residue is not in terms wholly disposed of, the Registrar may, if he is satisfied that the testator has nevertheless disposed of the whole or substantially the whole of the estate as ascertained at the time of the application for a grant, allow a grant to be made to any legatee or devisee entitled to, or to a share in, the estate so disposed of, without regard to the persons entitled to share in any residue not disposed of by the will;

Provided also that the Registrar may give a grant to any residuary legatee or devisee for life jointly with any ultimate residuary legatee or devisee on the renunciation or consent of the remaining residuary legatees or devisees for life;

(iv) Any legatee or devisee or any creditor or, subject to paragraph 2 of direction 7, the personal representative of any such person or, where the estate is not wholly disposed of by the will, any person who, notwithstanding that the amount of the estate is such that he has no immediate beneficial interest therein, may have a beneficial interest in the event of an accretion thereto;

(v) Any legatee or devisee, whether residuary or otherwise, entitled on the happening of any contingency; or any person having no interest under the will of the deceased who would have been entitled to a grant if the deceased had died wholly intestate.

*Grants to Attesting Witnesses*

**5.** Where a gift to any person fails by reason of section 15 of the Wills Act, 1837 (which provides that gifts to attesting witnesses or their spouses shall be void), such person shall not have any right to a grant as a beneficiary named in the will, but this is without prejudice to his right to a grant in any other capacity.

*Grants where the deceased died either testate or intestate and domiciled outside Northern Ireland on or after the 1st day of January, 1956.*

**6.** Where the deceased died on or after the 1st day of January, 1956, domiciled outside Northern Ireland, a grant of administration with or without will annexed may be made by the Principal Probate Registrar as follows, namely:—

(*a*) to the person entrusted with the administration of the estate by the court having jurisdiction at the place where the deceased died domiciled; or

(*b*) to the person entitled to administer the estate by the law of the place where the deceased died domiciled; or

(*c*) if there is no such person as is mentioned in paragraph (*a*) or (*b*) or if in the opinion of the Principal Probate Registrar the circumstances so require, to such person as the Principal Probate Registrar may by order direct:

Provided that nothing in this direction shall be construed as prejudicially affecting any power which might otherwise be exercisable of making—

(*a*) a grant of probate of any will which is admissible to proof

(i) if the will is in the English language, to the executor named therein;

(ii) if the will whether in the English language or not describes the duties of a named person in terms sufficient to constitute him executor according to the tenor of the will, to that person;

(*b*) where the whole of the estate in Northern Ireland consists of immovable property, a grant limited thereto in accordance with the law which would have been applicable if the deceased had died domiciled in Northern Ireland.

*Grants where two or more persons entitled in the same class*

**7.**—(1) A grant may be given to any person entitled thereto without notice to other persons entitled in the same class, but the Registrar may require notice to be given.

(2) Unless the Registrar otherwise directs a grant shall be given to a living member of a class entitled thereto in preference to the personal representative of a member of such class who has died after the deceased.

(3) Unless the Principal Probate Registrar otherwise directs a grant shall be given to a person not under disability in preference to an infant entitled in the same class.

*Grants to Assignees*

**8.** Where the only person entitled to the estate of the deceased, whether under a will or on intestacy, has assigned his whole interest in the estate, the assignee shall replace the assignor in the order of priority for a grant.

*Grants to persons having Spes Successionis*

**9.** Where a person is entitled to the beneficial interest in the whole estate of a deceased, administration may on the renunciation and consent of that person be granted to the person, or jointly to the persons, who would be entitled to that person's estate if

(*a*) that person were dead intestate; and

(*b*) his estate consisted only of the estate of the deceased at the time of the death of the deceased:

Provided that such administration shall not be granted unless the persons so entitled are not under disability and do not exceed four in number and if more than one they apply jointly for a grant.

*Grants to Attorneys*

**10.** Where a person entitled to a grant resides outside Northern Ireland, administration may be granted to his lawfully constituted attorney for his use and benefit, limited until such person shall obtain a grant or in such other way as the Registrar may direct:

Provided that where the person so entitled is an executor, administration shall not be granted to his attorney without notice to the other executors, if any, unless such notice is dispensed with by the Registrar.

*Grants on behalf of Infants*

**11.**—(1) Where a person to whom a grant would otherwise be made is an infant, administration for his use and benefit may, subject to paragraphs (3) and (4) of this direction, be granted—

(*a*) to the testamentary guardian of the infant or to any guardian of the infant appointed by a court of competent jurisdiction, or by or under the provisions of the Guardianship of Infants Act, 1886, or

(*b*) if there be no such guardian able and willing to act and the infant has attained the age of sixteen years, to any next-of-kin of the infant nominated by the infant or, where the infant is a married woman, to any such next-of-kin or to her husband if nominated by her.

(2) Unless the Principal Probate Registrar otherwise directs any person nominated under sub-paragraph (*b*) of the last foregoing paragraph may for the purpose of obtaining a grant represent any other infant whose next-of-kin he is, being an infant below the age of sixteen years, entitled in the same degree as the infant who made the nomination.

(3) Notwithstanding anything in this direction, administration for the use and benefit of the infant may be granted to any person assigned as guardian by order of the Principal Probate Registrar, in default of, or jointly with, or to the exclusion of, any such person as is mentioned in paragraph (1) of this direction; and such an order may be made on the application by the intended guardian who shall file an affidavit in support of the application giving such information as the Principal Probate Registrar shall deem necessary, and if required by such Registrar, an affidavit of fitness sworn by a responsible person.

(4) Where an infant who is sole executor has no interest in the residuary estate of the deceased, administration for the use and benefit of the infant until he attains the age of twenty-one years and applies for and obtains a grant shall, unless the Principal Probate Registrar otherwise directs, be granted to the person entitled to the residuary estate.

(5) Where one of two or more executors is an infant, administration with will annexed for the use and benefit of the infant may be granted if, and only if, the executors who are not under disability renounce or, on being cited to accept or refuse a grant, fail to make an effective application therefor.

(6) A grant to a guardian on behalf of an infant shall be made for his use and benefit until he shall attain the age of twenty-one years and shall apply for and obtain a grant, and a grant on behalf of more than one infant shall be made for their use and benefit until one of them shall attain the age of twenty-one years and shall apply for and obtain a grant.

(7) If under paragraph 3 of direction 7 the Principal Probate Registrar directs a grant to be given for the use and benefit of an infant notwithstanding that there is a person of full age not under disability entitled to apply for a grant, he may also direct that the grant to the guardian of the infant be further limited until such person applies for and obtains a grant.

(8) Where a grant is given for the use and benefit of an infant and there is any other infant entitled to apply for a grant for whose use and benefit a grant has not been obtained, the Principal Probate Registrar may direct that the grant be further limited until such other infant attains the age of twenty-one years and applies for and obtains a grant.

(9) Before giving a grant to any guardian of an infant the Registrar may require to be satisfied as to his fitness to act.

*Grants in case of mental or physical incapacity*

**12.**—(1) Where the Principal Probate Registrar is satisfied that a person entitled to a grant is by reason of mental or physical incapacity incapable of managing his affairs, administration for his use and benefit, limited during his incapacity or in such other way as such Registrar may direct, may be granted—

(*a*) in the case of mental incapacity, to the person authorised to apply for a grant by the Lord Chief Justice exercising the Sign Manual jurisdiction in lunacy; or

(*b*) where there is no person so authorised, or in the case of physical incapacity—

(i) if the person incapable is entitled as executor, and one person only is entitled to the whole residuary estate of the deceased, then to that person;

(ii) if the person incapable is entitled otherwise than as executor, then to the person who would be entitled to a grant in respect of his estate if he had died intestate;

or to such other person as the Principal Probate Registrar may by order direct.

(2) No grant of administration shall be made under this direction unless all persons entitled in the same class as the person incapable have been cleared off.

(3) In the case of mental incapacity, notice of intended application for a grant under this direction shall be given to the Department for the Affairs of Mental Patients, except where the person incapable is an executor with no beneficial interest in the estate.

(4) In the case of physical incapacity, notice of intended application for a grant under this direction shall be given to the person alleged to be so incapable unless the Principal Probate Registrar shall otherwise direct.

*Grants to Corporations other than Trust Corporations*

**13.** Where a corporation, not being a trust corporation, would if an individual be entitled to a grant, administration for its use and benefit may be granted to a nominee of the corporation, or if the corporation has its principal place of business outside Northern Ireland to its nominee or lawfully appointed attorney. Such a corporation must, however, satisfy the Registrar that it has power to act as personal representative save:—

1. where the corporation is entitled as a legatee or devisee (whether residuary or otherwise) or as a creditor of the deceased; or

2. where the corporation has been entrusted with the administration of the estate of the deceased by the Court of the domicil of the deceased; or

3. where the corporation is entitled by the law of the domicil of the deceased to administer the estate of the deceased in the country of his domicil.

*Grants to Nominees of certain legatees, devisees, and creditors*

**14.** Where any legatee or devisee under the will of a deceased, or any creditor of a deceased—not being a corporation—is an association, society, institution, community, order, or other body of persons (whether private or public), the Registrar may, if all persons entitled in priority to a grant have been cleared off, give a grant to the nominee of such legatee, devisee, or creditor. The nomination of the applicant for the grant shall be made in such manner as the Registrar shall require.

*Nil Estate Grants*

**15.** Where a grant is given in respect of a deceased person by virtue of the provisions of the Probates and Letters of Administration Act (Northern Ireland), 1933, as amended by section twenty-eight of the Principal Act it shall

(*a*) in the case of an original grant be given to such person as would have been entitled thereto had the deceased died leaving assets nominal in amount in Northern Ireland; and

(*b*) in the case of a de bonis non or other grant, to such person as would have been entitled thereto if there had been assets of the deceased nominal in amount unadministered in Northern Ireland at the time of making such grant.

*Number of Administrators*

**16.** No grant of administration shall be made jointly to more than four persons unless the Principal Probate Registrar otherwise orders.

*Administration De Bonis Non*

**17.** Where on the death of a personal representative of a deceased without having fully administered the estate, it is necessary to grant administration of the unadministered estate of the deceased, the directions that shall apply to the ascertainment of the new grantee shall be those that apply on an application for an original grant.

*Discretion of Registrar*

**18.** In any case not coming within the foregoing directions or within any subsequent directions, the Chief Registrar of the Principal Probate Registry (or in his absence the Assistant Registrar) shall have a discretion as to whom administration shall be granted, and may limit the grant in such way as appears desirable, and in exercising such discretion shall have regard to the circumstances of the estate of the deceased and the rights of the persons interested in such estate.