



DISCLAIMERS ON INTESTACY

It has come to the attention of the Conveyancing Committee both from practitioners and from recent articles in the Gazette that the precedent disclaimer on intestacy which appears at page 13.66 of the Conveyancing Handbook may not be adequate for a situation in which a number of beneficiaries have agreed to execute a disclaimer, on condition that all of them do so, for the purpose of benefiting a particular person. If all of them disclaim except one, for example, the desired result will not be achieved and the one who has not signed may become entitled to the property. It is considered best practice to have one disclaimer signed by all of them, where this is reasonably practicable, and to provide that it will take effect only when it is signed by all of them and from the date on which it is signed by the last person to sign.

A precedent taking account of the above is printed with this practice note. It should be used where possible to avoid having to deal with the consequences of a broken agreement which might have to be resolved by the court. It may be helpful to note that a disclaimer, once made, can be retracted, but only if it has not been acted on, and no other party has changed their position in reliance on it and if no consideration has been given for the disclaimer.

DISCLAIMER ON INTESTACY FOR EXECUTION BY A NUMBER OF BENEFICIARIES

DISCLAIMER OF AB,CD AND EF ON DEATH INTESTATE OF XY

Obit day of 20

This Deed of Disclaimer is made this day of 20 by AB (**occupation**) of..... in the County of, CD (**occupation**) of in the County ofand DE (**occupation**) of in the County of

WHEREAS:

- 1 XY late of (hereinafter called 'the deceased') died on the day of 20 having died intestate as to the interests hereby disclaimed.
- 2 The deceased was (**marital status**) and (**occupation**) and was survived by (state if survived by, for example, a spouse and two children or as the case may be).
- 3 We are all children of the deceased (*or as the case may be*) and, as such, we are each entitled to a one twelfth (i.e. one quarter of a third) share of the deceased's estate (or of that part of the deceased's estate as to which he died intestate) (hereinafter called



‘the said share’ and collectively as ‘the said shares’) under the rules for distribution on intestacy set out in the Succession Act, 1965. (*Vary the shares in proportion to the number of beneficiaries and their entitlement*).

- 4 None of us has accepted the said share from the personal representative of the deceased or otherwise nor have any of us exercised any degree of beneficial ownership, control or possession in respect of the said share.

Now it is hereby witnessed that each of us **hereby irrevocably disclaims** absolutely all our respective rights to the said shares and we hereby acknowledge that on the execution by each of us of this disclaimer we will each lose any right we may respectively have (by virtue of our respective entitlement to the said shares) to extract a grant of administration to the estate of the deceased.

And it is hereby further witnessed that this Deed shall:

- (1) not become effective (as against all or any of the parties hereto) until it is executed by all parties hereto and
- (2) be deemed to operate with effect from the date upon which it is executed by the last of the parties hereto to execute it.

(Insert the following paragraph unless a grant has already issued to one or more persons disclaiming or the parties have already signed a renunciation).

And we hereby acknowledge that on the execution by us of this disclaimer we will each lose any right we may have (by virtue of our respective entitlements to the said share) to extract a grant of administration to the estate of the deceased.

In witness whereof the parties hereto have hereunto set their respective hands and affixed their respective seals the day and year first above written.

SIGNED SEALED AND DELIVERED

by the said AB in the presence of:

SIGNED SEALED AND DELIVERED

by the said CD in the presence of:

SIGNED SEALED AND DELIVERED

by the said EF in the presence of:

**DISCLAIMERS ON
INTESTACY**

(Contd.)