**Respondent Information Form**



**Consultation on the Law of Succession**

**RESPONDENT INFORMATION FORM**

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual

Organisation

Full name or organisation’s name

Phone number

Address

Postcode

Email

**Information for organisations:**

The option 'Publish response only (without name)’ is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

The Scottish Government would like your

permission to publish your consultation

response. Please indicate your publishing

preference:

Publish response with name

Publish response only (without name)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

**CONSULTATION QUESTIONS**

**INTESTACY**

**1. Do you agree that the current approach to intestate succession needs to be reformed?**

Yes/No

Reasons

**2. Do you agree that the aim of any reforms should be to reflect outcomes which individuals and their families would generally expect?**

Yes/No

Reasons

**3. If you favour a different approach, would you prefer to model that change on the regime in Washington State or British Columbia or neither?**

Washington State/British Columbia/ Neither

Reasons

**4. Which of the Washington State or British Columbia models delivers outcomes which most closely reflect what modern Scottish families (with all their many permutations) might expect to happen on the death of a spouse/civil partner?**

Washington State/British Columbia

Reasons

**5. If the Washington State model (‘community of acquests’) is your preferred model, do you think that the Family Law Act (Scotland) 1985 financial provisions on divorce could be readily applied to intestate estates?**

Yes/No

Reasons

**6. If the British Columbia model (threshold) is your preferred model, what do you think should be the appropriate threshold levels in Scotland?**

Comments

**7. Should step-children have a right equivalent to that of biological or adopted children to inherit in intestacy?**

Yes/No

Reasons

**8. Should step-children be able to inherit in order to avoid a step parent’s intestate estate passing to the Crown?**

Yes/No

Reasons

**COHABITANTS AND INTESTACY**

**9. Do you agree that cohabitants should continue to have to apply to the courts in order to obtain any financial provision in intestacy?**

Yes/No

Reasons

**10. Do you agree that cohabitants should have an automatic entitlement to inherit in intestacy?**

Yes/No

Reasons

**11. Do you agree that a qualifying cohabitant should have the same rights as a spouse or civil partner in intestacy?**

Yes/No

Reasons

**12. Should a cohabitant inherit where there is a surviving spouse or civil partner?**

Yes/No

Reasons

**13. Should a surviving spouse or civil partner inherit where there is a surviving cohabitant?**

Yes/No

Reasons

**14. Do you agree that where there is both a surviving spouse and a surviving qualifying cohabitant that the spousal share should be split equally between them?**

Yes/No

Reasons

**15. Do you agree that where there is both a surviving spouse and a surviving qualifying cohabitant that the spousal share should be split between them as agreed and where the parties cannot agree that the Courts should determine the split?**

Yes/No

Reasons

**ADDITIONAL MATTERS**

**Temporary Aliment**

**16. Do you agree or disagree that there should be a time limit for claims for temporary aliment?**

Agree/Disagree

Reasons

**17. If you agree, should that time limit be 6 months?**

Yes/No

Reasons

**18. If you do not agree, what time limit would you suggest?**

Reasons

**Equitable compensation**

**19. Do you agree that the implementation of section 7 of the Succession (Scotland) Act 2016 has reduced the potential application of the doctrine of equitable compensation to the extent that no further change is required?**

Yes/No

Reasons

**Executors**

**20. Should a convicted murderer be allowed to be executor to their victim’s estate?**

Yes/No

Reasons

**21. Should someone convicted of culpable homicide be allowed to be executor to their victim’s estate?**

Yes/No

Reasons

**22. Should conviction automatically prevent/disqualify someone convicted of either murder or culpable homicide from acting as an executor on their victim’s estate?**

Yes/No

Reasons

**23. Should a conviction for any type of crime which results in imprisonment automatically disqualify an executor from acting?**

Yes/No

Reasons

**24. Do you agree that someone who has been charged with the murder or culpable homicide of their benefactor should be disqualified from becoming the executor until the outcome of a trial determines whether or not the disqualified executor is guilty or innocent?**

Yes/No

Reasons

**25. If you agree, should consideration be given to the appointment of a judicial factor, on an interim business or otherwise, until such time as a conviction is confirmed?**

Yes/No

Reasons

**Non-disclosure of sensitive information in a grant of confirmation**

**26. Are you aware of any difficulties which have been encountered as a consequence of public access to the details provided in an Inventory?**

Yes/No

Reasons

**27. Does the current process of making the Inventory (and all the attendant information contained therein including bank account details) publicly available have the potential to create difficulties for beneficiaries, executors, the deceased’s family or other individuals?**

Yes/No

Reasons

**28. Do you agree that information which may compromise the security of joint accounts/assets for the survivor should be redacted?**

Yes/No

Reasons

**29. What sort of information contained in the Inventory should not be publicly available?**

Reasons

**30. Should it be possible to redact information from the inventory of an estate which may compromise the security of another individual’s assets?**

Yes/No

Reasons

**31. Would delaying the public availability of inventories for a year provide the necessary protections for individuals for whom the security of their assets may be compromised?**

Yes/No

Reasons

**32. Is there another means of providing the necessary protections to individuals who may be compromised?**

Yes/No

Reasons

**33. Should personal details of a beneficiary in wills be in the public domain?**

Yes/No

Reasons

**34. Should it be possible to redact personal details of a beneficiary from a will?**

Yes/No

Reasons

**35. Would delaying the public availability of a will for a year address concerns about sharing personal details of a beneficiary?**

Yes/No

Reasons

**Small Estates Limit**

**36. Do you agree that it would now be appropriate to review the ‘small estates’ limit?**

Yes/No

Reasons

**Executors, beneficiaries and timeshare contracts**

**37. How many executry cases are you are aware of where there has been a difficulty created by a timeshare contract in perpetuity?**

**38. What are the issues in these cases for beneficiaries?**

**39. What are the issues in these cases for Executors?**

**40. What are the solutions?**

**41. Are there similar contracts in other areas which create difficulties for executors and beneficiaries**?