

INTESTATE SUCCESSION LAW, 1985 (PNDCL 111)

As amended by

INTESTATE SUCCESSION (AMENDMENT) LAW, 1991 (PNDCL 264).¹

ARRANGEMENT OF SECTIONS

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IN pursuance of the Provisional National Defence Council (Establishment)

Proclamation, 1981, this Law is hereby made:

Section 1—Application of Law.

(1) On the commencement of this Law, the devolution of the estate of any person who dies intestate on or after such commencement shall be determined in accordance with the provisions of this Law subject to subsection (2) of this section and the rules of private international law.

(2) This Law shall not apply to any stool, skin or family property.

Section 2—Intestacy and Partial Intestacy.

(1) A person shall be deemed to have died intestate under this Law if at the time of his death he had not made a will disposing of his estate.

(2) Any person who dies leaving a will disposing of part of his estate shall be deemed to have died intestate under this Law in respect of that part of his estate which is not disposed of in the will and accordingly the provisions of this Law shall apply to such part of his estate.

Section 3—Devolution of Household Chattels.

Where the intestate is survived by a spouse or child or both, the spouse or child or both of them, as the case may be, shall be entitled absolutely to the household chattels of the intestate.

Section 4—Spouse or Child or both to be entitled to one House.

Notwithstanding the provisions of this Law:—

(a) where the estate includes only one house the surviving spouse or child or both of them, as the case may be, shall be entitled to that house and where it devolves to both spouse and child, they shall hold it as tenants-in-common;

(b) where the estate includes more than one house, the surviving spouse or child or both of them, as the case may be, shall determine which of those houses shall devolve to such spouse or child or both of them and where it devolves to both spouse and child they shall hold such house as tenants-in-common:

Provided that where there is disagreement as to which of the houses shall devolve to the surviving spouse or child or to both of them, as the case may be, the surviving spouse or child or both of them shall have the exclusive right to choose any one of those houses; except that if for any reason the surviving spouse or child or both of them are unwilling or unable to make such choice the High Court shall, upon application made to it by the administrator of the estate, determine which of those houses shall devolve to the surviving spouse or child or both of them.

Section 5—Intestate Survived by Spouse and Child.

(1) Where the intestate is survived by a spouse and child the residue of the estate shall devolve in the following manner:

- (a) three-sixteenth to the surviving spouse;
- (b) nine-sixteenth to the surviving child;
- (c) one-eighth to the surviving parent;
- (d) one-eighth in accordance with customary law:

Provided that where there is a child who is a minor undergoing educational training, reasonable provision shall be made for the child before distribution. [Repealed and substituted by The Children's Act (Act 560), sch. to s.125].

(2) Where there is no surviving parent one-fourth of the residue of the estate shall devolve in accordance with customary law. [As inserted by The Children's Act, 1998 (Act 560), sch. to s.125]

Section 6—Intestate Survived by Spouse only.

Where the intestate is survived by a spouse and not a child the residue of the estate shall devolve in the following manner:

- (a) one-half to the surviving spouse;
- (b) one-fourth to the surviving parent;
- (c) one-fourth in accordance with customary law:

Provided that where there is no surviving parent one-half of the residue of the estate shall devolve in accordance with customary law.

Section 7—Intestate Survived by Child only.

Where the intestate is survived by a child and not by a spouse the surviving child shall be entitled to three-fourths of the residue and of the remaining one-fourth, one-eighth to the surviving parent and one-eighth shall devolve in accordance with customary law:

Provided that where there is no surviving parent the whole of the one-fourth shall devolve in accordance with customary law.

Section 8—Intestate Survived by Parent only.

Where the intestate is survived by a parent and not by a child or spouse, three-fourths of his estate shall devolve to the surviving parent and the remaining one-fourth shall devolve in accordance with customary law.

Section 9—Devolution of Residue where Customary Law is Inapplicable.

Where no customary law is applicable to the devolution of that part of the residue which by virtue of sections 5, 6, 7 or 8 of this Law shall devolve in accordance with customary law such part of the residue shall devolve in equal shares to those