

1. (1) In this Act,

Interpretation

“estate” includes both real and personal property;

“issue” means all lineal descendants of a person through all generations;

“successors” means those persons who are entitled to the estate of an intestate through succession under this Act.

(2) If the relationship of parent and child must be established at any generation to determine succession by, through or from a person under this Act, that relationship shall be established, insofar as it is applicable, under either

(a) the Uniform Child Status Act; or

(b) subject to subsection (3), the Uniform Effect of Adoption Act.

(3) The adoption of a child by the spouse of a parent does not terminate the relationship of parent and child between the child and that parent for purposes of succession under this Act.

(4) Under this Act,

(a) kindred of the half blood inherit equally with kindred of the whole blood of the same degree of kinship to the intestate; and

(b) kindred of the intestate conceived before his death but born thereafter inherit as if they had been born in the lifetime of the intestate.

2. (1) This Act applies only in cases of death occurring after its commencement. *Application*

(2) Any part of the estate of a deceased not disposed of by will shall be distributed under this Act.

3. (1) The share of the surviving spouse is as follows: *Share of spouse*

(a) if there is no surviving issue of the intestate, the entire intestate estate;

(b) if there are surviving issue of the intestate,

(i) all of the intestate estate to a maximum entitlement, subject to subsection (2), of [\$100,000], and

(ii) one half of any remainder of the intestate estate after allocation of the share provided by subclause (i).

(2) The maximum entitlement set out in subclause (1)(b)(i) shall be reduced by an amount equal to the value of any benefits received by the surviving spouse under a will of the deceased.

(3) If, before the death of the intestate, the surviving spouse became entitled to an interest in any property of the intestate under the (Matrimonial Property Act or any similar Act), or the intestate made a property division in favour of the surviving spouse, the surviving spouse shall be treated as if he had predeceased the intestate.

(Note. Jurisdictions should insure that their matrimonial property legislation does not conflict with this subsection.)

(4) In subsection (3), "property division" means an arrangement between the spouses concerning the division of their property which is intended by them, or which appears to have been intended by them, to separate and finalize their affairs in recognition of their marital break-up.

(5) Subsection (3) does not apply to a surviving spouse who reconciled with the intestate if the reconciliation was subsisting at the time of the intestate's death.

Share of kindred 4. (1) The part of the intestate estate not included in the share of the surviving spouse, or the entire estate if there is no surviving spouse, shall be distributed as follows:

(a) to the issue of the intestate as provided in subsections (2) and (3);

(b) if there is no surviving issue, to the parents of the intestate in equal shares or to the survivor of them;

(c) if there is no surviving issue or parent, to the issue of the parents or either of them as provided in subsections (2) and (3);

(d) if there is no surviving issue, parent or issue of a parent, but the intestate is survived by one or more grandparents or issue of grandparents,

(i) one half of the estate to the paternal grandparents in equal shares or to the survivor of them, but if there is no surviving paternal grandparent, to the issue of the paternal grandparents or either of them as provided in subsections (2) and (3), and

(ii) one half of the estate to the maternal grandparents or their issue in the same manner as provided in subclause (i),

but if there is only a surviving grandparent or issue of a grandparent on either the paternal or maternal side, the entire estate to the kindred on that side in the same manner as provided in subclause (i).

(e) if there is no surviving issue, parent, issue of a parent, grandparent or issue of a grandparent but the intestate is survived by one or more great-grandparents or issue of great-grandparents,

(i) one half of the estate to the paternal great-grandparents or their issue in two equal shares, as follows:

(A) one share to the parents of the paternal grandfather in equal shares or to the survivor of them, but if there is no surviving parent of the paternal grandfather, to the issue of the parents of the paternal grandfather or either of them as provided in subsections (2) and (3), and

(B) one share to the parents of the paternal grandmother or their issue in the same manner as provided in paragraph (A),

but if there is only a surviving great-grandparent or issue of a great-grandparent on either the paternal grandfather's or paternal grandmother's side, one half of the estate to the kindred on that side in the same manner as provided in paragraph (A), and

(ii) one half of the estate to the maternal great-grandparents or their issue in the same manner as provided in subclause (i),

but if there is only a surviving great-grandparent or issue of a great-grandparent on either the paternal or maternal side, the entire estate to the kindred on that side in the same manner as provided in subclause (i).

(2) When a distribution is to be made to the issue of a person, the estate or the part thereof which is to be so distributed shall be divided into as many shares as there are

(a) surviving children of that person; and

(b) deceased children of that person who left issue surviving the intestate.

(3) Each surviving child shall receive one share, and the share of each deceased child shall be divided among his issue in the same manner as provided in subsection (2) and this subsection.

*Survival for
fifteen days*

5. (1) Any person who fails to survive the intestate for fifteen days, excluding the dates of death of the intestate and of the person, shall be treated as if he had predeceased the intestate for purposes of succession under this Act.

(2) If the death of a person who would otherwise be a successor has been established, but it cannot be established that that person survived the intestate for the period required by subsection (1), that person shall be treated as if he had failed to survive the intestate for the required period.

(3) This section is not applicable when its application would result in a distribution of the intestate estate (by escheat).

Advancements

6. (1) If a person dies intestate as to all of his estate, property which he gave in his lifetime to a prospective successor shall be treated as an advancement against that successor's share of the estate only if the property was either

(a) declared in a contemporaneous writing by the intestate; or

(b) acknowledged in writing by the recipient,
to be an advancement.

(2) Property advanced shall be valued as declared by the intestate in writing, otherwise the property advanced shall be valued as of the time of the advancement.

(3) If the recipient of the property advanced fails to survive the intestate, the property advanced shall not be treated as an advancement against the share of the estate of the recipient's issue unless the declaration or acknowledgment of the advancement so provides.

(4) Under this section, the shares of the successors shall be determined as if the property advanced were part of the estate available for distribution, and if the value of the property advanced equals or exceeds the share of the estate of the successor who received the advancement, that successor shall be excluded from any share of the estate, but if the value of the property advanced is less than the share of the estate of the successor who received the advancement, that successor shall receive as much of the estate as is required, when added to the value of the property advanced, to give him his share of the estate.

7. Subject to (the Dower Act or any similar Act) the common law estates of dower and curtesy are abolished. *Dower and curtesy abolished*

8. If there is otherwise no successor under this Act, the intestate estate shall be distributed (to the Province). *No successors*

