

INTESTATE SUCCESSION BILL 2022

MEMORANDUM

The object of the Bill is to remove the anomalies in the present law relating to intestate succession and to provide a uniform intestate succession law that will be applied throughout the country irrespective of the inheritance system of the intestate and the type of marriage contracted.

The present law on intestate succession appears to be overtaken by changes in the Ghanaian family system. The importance of the extended family is gradually shifting to the nuclear family as pertains in other parts of the world. The nuclear family is therefore gaining an importance which is not reflected in the current laws of succession.

There is often tension between the nuclear family and the traditional family unit as to the appropriate line of devolution of property upon the death intestate of a member of both units. Customary law provides very little protection for a surviving spouse. Neither spouse has a right to the property of the other. Children in a matrilineal system have no more than a right to maintenance by the customary successor of their father and a right to reside in the house of their father subject to good behaviour. Sometimes the next of kin who inherits the property may or may not give a share to the surviving spouse and children.

In a patrilineal system, the eldest son of the deceased inherits the deceased on behalf of the siblings who are sometimes denied their inheritance. In certain cases on the death intestate of the successor, the property passes on to the children of the successor.

The customary law concept of marriage did not regard a wife as part of the economic unit of the husband. As a result, the claim of the wife on the property of the husband was limited. Currently, there is a movement towards the involvement of the wife in the economic activity of the husband. This brings with it a corresponding weakening of the extended family which is therefore less likely to be able to support the widows in the family. The husband with whom the woman has lived and whom she has probably served, is the person on whose property she must depend after his death or vice versa.

INTESTATE SUCCESSION BILL, 2022

The growing importance of the nuclear family brings with it its own logic of moral justice. Simply put, this argues that a surviving spouse be compensated for the services to the deceased spouse. It also means that a spouse is more likely to look after the children on the death of the other spouse than anyone **else**. In addition, it satisfies the expectation of spouses by giving the property of one to the other on the death of the former.

The provisions of the Intestate Succession Act, 1985 (P.N.D.C.L. 111) provide some protection beyond the customary law. The apportionment of the estate in fractions, however, creates a source of insecurity by not identifying any specific item of the estate as definitely going to one group or the other.

In addition, the rules of succession under P.N.D.C.L. 111 are discriminatory. A widower gets more of the property of his deceased wife than does a widow in respect of the property of her husband. Also, the rules applied are archaic and frequently inaccessible and need to be reformed.

It has been thirty-six years since P.N.D.C.L. 111 was enacted. At that time it was an innovation, hailed as a source of relief for spouses and children who were often victims of ejection and other forms of persecution when the breadwinner of the family, usually the husband, died intestate. The law was intended to prevent members of the extended family from taking over the assets of the deceased for their own use to the detriment of the surviving spouse and children of the deceased.

Some of the provisions of the law have however proved inimical to the interest of the immediate family of the deceased. The provisions on the fractional distribution of the estate of the deceased have been difficult to implement. The specific portion of the estate fixed by the current law to devolve on the spouse irrespective of the number of spouses involved creates a problem.

No provision is made for polygamous marriages where the deceased is survived by a number of spouses so they are all compelled to share the same fraction that the law stipulates for the surviving spouse. The requirement that the matrimonial home be shared between the surviving

INTESTATE SUCCESSION BILL, 2022

spouse and children of the deceased, some of whom may not be children of the surviving spouse has often resulted in acrimony.

P.N.D.C.L. 111 is silent on the issue of joint acquisition of property and how this should affect the fraction of the estate that the surviving spouse is entitled to. The surviving spouse may therefore lose out on any investment made in the property.

No provision is also made in the existing law for dependant parents. Likewise there is no provision for children of the deceased who are still in school.

The Bill seeks to give a larger portion of the estate of the deceased to the spouse and children than is the case at present. It is to make the law more responsive to the needs of the immediate family of persons who die intestate that the Bill is being proposed.

Clause 1 makes provision for the devolution of the estate of a person who dies without making a will to be determined by the *BMI* and the rules of private international law. Subclause (2) states that the Bill will only apply to the self-acquired property of the intestate and not family, stool or skin property.

Clause 2 deals with intestacy and partial intestacy. The clause provides an explanation as to what intestacy is. A person dies intestate if at the time of death, the person has not made a will disposing of the self-acquired estate of that person.

A person who dies leaving a will disposing of part of the estate whilst the other part is not covered by the will is said to have died partially intestate.

Clause 3 stipulates that the spouse and children are entitled absolutely to the household property of the intestate.

Clause 4 makes provision for instances where the estate includes only one house. A spouse in such a situation is entitled to fifty percent of the estate. Where the estate includes one house and the surviving spouse partly owns that house, the estate available for distribution is not to include the part owned by the surviving spouse.

INTESTATESUCCESSION BILL, 2022

However, where the estate includes more than one house, the surviving spouse is entitled to choose one house whilst the children choose another. The clause further provides for cases of disagreement as to which house should be given to the surviving spouse or child, or where the surviving spouse and child are unwilling or unable to make a choice. The clause enables the administrator of the estate of the intestate to apply to the court for a determination of which of the houses should go to the surviving spouse or child.

Clause 5 deals with the apportionment of the estate of an intestate who is survived by a spouse and a child. A surviving spouse is entitled to thirty-five percent whilst a child is entitled to forty-five percent. Fifteen percent goes to the surviving parent and five percent devolves in accordance with customary law.

Clause d provides for the devolution of the estate of an intestate who is survived by more than one spouse. In this instance, fifty percent is to go to the surviving spouses, forty percent to the surviving children, five percent to the surviving parent and five percent in accordance with customary law. Where there is no surviving parent, an extra five percent goes to the surviving children. This is to ensure that the surviving children receive greater benefit from the estate of the deceased parent.

The judge is given a discretion to give a surviving spouse who is estranged from the deceased and who has been living separately for a period of not less than five years a percentage of the estate of the deceased but which is not less than thirty percent of the estate of the intestate, *clause 7*. The specification of the period of not less than five years is to provide the judge certainty in respect of the period to be taken into consideration in the exercise of the discretion. A definition for “estranged spouse” is also provided in subclause (2) of *clause 7*.

A surviving spouse is to have a fifty percent share in the matrimonial home and where the spouse partly owns the matrimonial home, the estate available for distribution is not to include the part owned by the surviving spouse, *clause 8*.

INTESTATE SUCCESSION BILL, 2022

Clause 9 provides the surviving spouse with an option to buy out the share of the other beneficiaries. This is where the estate consists of only one house and the surviving spouse contributed to the acquisition of the house.

Clause 10 deals with joint ownership of property other than the matrimonial home. Where the deceased owned other property in addition to the matrimonial home and the surviving spouse owns part of that property, only that part of the property owned by the deceased spouse is available for distribution.

Clause 11 provides for the sale or redemption of a mortgaged estate. A surviving spouse or child may apply to the court for the sale or redemption of property which is subject to a mortgage. The clause mandates the court to make an order for the sale or redemption of the property.

Clause 12 provides for the children of the intestate who are in school or learning a trade and other dependants of the deceased. This is to ensure that children or dependants who are undergoing training but who are not enrolled in formal education are catered for. The clause provides that before the estate is distributed the needs of dependant children should be met.

The fees of children and dependants of the deceased who are still pursuing educational courses should be paid. For the purpose of the *clause*, a dependant child is a child who depends on the intestate for the payment of educational fees and provision of other necessities or a child who is incapacitated and who depends on the intestate.

Clause 13 provides for an intestate survived by a spouse only. The spouse will be entitled to eighty percent of the estate with fifteen percent devolving to the surviving parent and the remaining five percent devolving in accordance with customary law. In addition, where there is no surviving parent, eighty percent of the estate will go to the surviving spouse whilst twenty percent devolves in accordance with customary law. This is to ensure that a greater proportion of the estate is given to the surviving spouse to offset the likely loss of financial support from the deceased spouse.

INTESTATE SUCCESSION BILL, 2022

Clause 14 states that where an intestate is survived by only a child and not a spouse, the child is entitled to seventy-five percent of the estate, the surviving parent entitled to twenty percent and five percent will pass in accordance with customary law.

Where there is no surviving parent, ninety percent of the estate passes on to the children and ten percent in accordance with customary law.

Clause 15 stipulates the percentage that the surviving parent is entitled to, where there is neither a spouse nor a child. Ninety percent passes to the surviving parent and ten percent passes in accordance with customary law.

Clause 16 provides for situations where a foreigner makes Ghana his or her home. Where a foreigner makes Ghana his or her home, the rules of private international law may require that Ghanaian law be made applicable to the distribution of the property of that foreigner if that foreigner dies intestate. In that case, the Bill will be applicable to the foreigner. However domestic customary law rules may not apply to the foreigner, because that foreigner may not have identified with any ethnic group. The clause provides that if customary law is not applicable to the distribution of the estate of the intestate, the portion which should devolve in accordance with customary law will go to those beneficiaries who are entitled to share the residue. For example, if the foreigner dies survived by a spouse and children, the named beneficiaries will also take in equal shares the part of the property which would ordinarily have passed in accordance with customary law.

Clause // deals with rules for the determination of the family which is considered for the purpose of succession to the property of an intestate. Where an intestate clearly belonged to only one community, the law of that community determines who constitutes the family of the intestate. If the intestate belonged to two communities, then the families in accordance with the law of both communities will take the share that should go to the family. If the intestate does not belong to any family in accordance with the customary law, the family with which the intestate

INTESTATE SUCCESSION BILL, 2022

was closely identified at the death of the intestate or, the families of the parents of the intestate, will take the portion of the family or failing that, that portion goes to the Republic.

The Bill in *clause 18* takes cognisance of situations where the intestate is not survived by a spouse, child or parent. In such instances the rules of customary law are applicable. These are rules of customary law which identify the relatives of the deceased who will take the property if the intestate is not survived by a spouse, child or parent. In some communities, a group of persons or the family will take the property. In others there is a hierarchy of persons who will benefit from an intestacy if certain relatives do not survive the deceased.

However, in the unlikely event that there is no customary law rule that governs the devolution of the property of the intestate who is not survived by a spouse, child or parent, the property devolves upon the Republic. A person maintained by the intestate or with whom the intestate was closely identified may apply to the High Court to be maintained out of the estate.

Clause 19 provides for small estates. This is to limit fragmentation and ensure that the beneficiaries under an intestacy receive something substantial. If the intestate is survived by a spouse or child or both and the estate is worth less than ten thousand Ghana Cedis the spouse and child will be entitled to the whole estate. If there is only a parent the parent is entitled to the whole estate.

Clause 20 enables the Minister responsible for Justice to alter the value of small estates under *clause 19*.

Clause 21 provides for the sharing of a portion of the estate by two or more persons. Where two or more persons are entitled to share a portion of the estate of an intestate the beneficiaries will divide it among themselves in equal shares.

Clause 22 provides for the situation where spouses die more or less at the same time.

INTESTATE SUCCESSION BILL, 2022

Clause 23 provides for the maintenance of a grandchild of the intestate who is a dependant of the intestate. Such a grandchild may be given the whole or part of the portion that the parent of the grandchild would have been entitled to if that parent had survived the intestate.

Clause 24 prohibits the ejection of a spouse from the matrimonial home. A person who ejects a surviving spouse and child from the matrimonial home before the distribution of the estate of a deceased commits an offence.

Under *clause 25* the unlawful deprivation of a spouse or a person entitled to the use of a property of an intestate by another person is prohibited. Similarly, the unlawful deprivation of the use of property by a person entitled to the use of the property which was shared with the deceased or the removal, destruction or unlawful interference with the property of the deceased constitutes an offence. The penalty for the offences stipulated under *clauses 24* and *25* is a fine of not less than seven hundred penalty units and not more than one thousand penalty units or a term of imprisonment of not less than two years and not more than four years or to both the fine and imprisonment.

Clan 26 stipulates other offences. These include the locking up of property which belonged to the deceased, another person taking possession of household property in the matrimonial home and deprivation of an entitled person to the use of a part or all of the property.

Clause 27 provides for Regulations.

Clause 28 is the interpretation clause. The clause provides a definition for “contribution”. Contribution may include the payment of money for the acquisition of property, care of children, the aged or infirm, management of the household and performance of household duties. The payment of money to maintain or increase the value of property is also a contribution. This is necessary because a spouse may make a contribution towards the acquisition of property without physically contributing cash but may provide services in the home which would free up resources for the other spouse to buy or purchase the property.

INTESTATE SUCCESSION BILL, 2022

“Property” is defined as immovable property, cash and moneys in bank accounts, bonds, proceeds or right to proceeds of an insurance policy payable on the death of the insured person, a lump sum payment provided under a personal or similar plan, damages or a right to damages for personal injuries, nervous shock or mental distress.

Clause 29 is the repeal and savings clause. The clause repeals the Intestate Succession Act, 1985 (P.N.D.C.L. 111) and saves notices, orders, directions, appointments or any act lawfully made or done under the repealed enactment.

GODFRED YEBOAH DAME

Attorney-General and Minister responsible for Justice

Date: 25th April, 2022.

INTESTATE SUCCESSION BILL, 2022

ARRANGEMENT OF SECTIONS

Section

General Provisions

1. Application of Act
2. Intestacy and partial intestacy
3. Devolution of household property

Distribution of Estate of an Intestate

4. Spouse, child or both entitled to one house
5. Intestate survived by spouse and child
6. Intestate survived by more than one spouse
7. Interest of estranged spouse
8. Interest of surviving spouse in matrimonial home
9. Option to buy out
10. Interest of surviving spouse who is a joint owner
11. Sale or redemption of a mortgaged estate
12. School-going and other dependants of deceased
13. Intestate survived by spouse
14. Intestate survived by child
15. Intestate survived by parent only
16. Devolution of residue where customary law is inapplicable
17. Customary law provisions for succession by family
18. Intestate survived by neither spouse, parent nor child
19. Small estates
20. Variation of value of residue
21. Sharing of portion of residue by two or more persons
22. Presumption on survivorship
23. Grandchild of intestate
24. Prohibition of ejection of spouse

Miscellaneous Provisions

25. Offences against spouse and entitled person
26. Other offences
27. Regulations
28. Interpretation
29. Repeal and savings

A
BILL

ENTITLED

INTESTATE SUCCESSION ACT, 2022

AN ACT to provide for intestate succession and for related matters.

PASSED by Parliament and assented to by the President:

General Provisions

Application of Act

1. (1) The devolution of the estate of a person who dies intestate on or after the commencement of this Act shall be determined in accordance with this Act subject to subsection (2) and the rules of private international law.

(2) This Act does not apply to a stool, skin or family property

Intestacy and partial intestacy

2. (1) A person dies intestate under this Act if at the time of death, the person had not made a will disposing of the estate of that person.

Intestate Succession Bill, 2022

(2) A person who dies leaving a will disposing of part of the estate of that person shall be deemed to have died intestate under this Act in respect of that part of the estate which is not disposed of in the will and accordingly this Act applies to that part of the estate.

Devolution of household property

3. Where the intestate is survived by a spouse or a child or both a spouse and a child, the spouse or the child is or both of them are entitled absolutely to the household property of the intestate.

Distribution of Estate of an Intestate

Spouse, child or both entitled to one house

4. (1) Subject to sections 8 and 9, where the estate includes only one house, the surviving spouse is entitled to fifty percent interest in the estate.

(2) Subject to section 8, where the estate includes one house and the surviving spouse partly owns that house, the estate available for distribution shall not include the part owned by the surviving spouse.

(3) Subject to section 8, where the estate includes more than one house, the surviving spouse is entitled to one house and the children are entitled to another.

(4) Where there is disagreement as to which of the houses devolves to the surviving spouse or child, the surviving spouse has priority and the exclusive right to choose any one of the houses.

(5) Where the surviving spouse is, or the spouse and child are unwilling or unable to make the choice, the court shall determine which of the houses devolves to the surviving spouse or child on application made to it by the administrator of the estate.

Intestate survived by spouse and child

5. (1) Where the intestate is survived by a spouse and by a child, the residue of the estate devolves in the following manner:

- (a) thirty-five percent to the surviving spouse,
- (b) forty-five percent to the surviving child,
- (c) fifteen percent to the surviving parent, and
- (d) five percent in accordance with customary law.

(2) Where there is no surviving parent, the residue of the estate shall devolve in the following manner:

- (a) forty-five percent to the surviving spouse,

Intestate Succession Bill, 2022

- (b) forty-five percent to the surviving child, and
- (c) ten percent in accordance with customary law.

Intestate survived by more than one spouse

6. (1) Where the intestate is survived by more than one spouse, the residue of the estate devolves in the following manner:

- (a) fifty percent to the surviving spouses,
- Q) forty percent to the surviving child,
- c) five percent to the surviving parent, and
- (a) five percent in accordance with customary law.

(2) Where there is no surviving parent, the residue of the estate shall devolve in the following manner:

- (a) fifty percent to the surviving spouses,
- Q) forty-five percent to the surviving child, and
- (c) five percent in accordance with customary law.

Interest of estranged spouse

7. (1) Where spouses are estranged, the Judge shall exercise a discretion as to what percentage of the estate to give to the estranged spouse which in any case shall not be less than thirty percent on the death intestate of the other spouse.

(2) For the purposes of this Act, an “estranged spouse” means a spouse who has not lived in the same house with the other spouse for a period of not less than five years and who no longer has a normal relationship with the other spouse.

Interest of surviving spouse in matrimonial home

8. (1) Where the intestate is survived by a spouse, the surviving spouse shall have a fifty percent interest or share in the matrimonial home.

(2) Where the surviving spouse partly owns the matrimonial home, the estate available for distribution shall not include the part owned by the surviving spouse.

Option to buy out

9. Where the estate of the intestate consists of only one house and the surviving spouse made a contribution to the acquisition of the house, the surviving spouse shall have the option to buy out the other beneficiaries.

Interest of surviving spouse who is a joint owner

10. Where the deceased owned other property in addition to the matrimonial home and the surviving spouse owns part of that property, only that part of the property owned by the deceased spouse is available for distribution.

Sale or redemption of a mortgaged estate

11. (1) Where the estate includes property which is subject to a mortgage, the surviving spouse or a surviving child, may make an application to the court for the sale or redemption of the property.

(2) On application to the court, the court shall make an order for the sale or redemption of the property subject to the mortgage.

School-going and other dependants of deceased

12. (1) Before the estate of the intestate is distributed, provision shall be made out of the estate of the deceased for the needs of a child

(a) who is still pursuing an educational course or learning a trade,

(i) for the payment of the educational fees up to the tertiary level or its equivalent or for the apprenticeship and other related fees up to the completion of the training in the trade for the child, and

(ii) for the provision of other necessities for the child; and

(b) who is incapacitated and who depends on the intestate.

(2) An administrator of the estate of an intestate who does not make reasonable provision for the educational training and other necessities of a child of the deceased commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than four years or to both and the court shall make any orders that it considers necessary for the re-instatement of the child or reimbursement of the educational fees.

Intestate survived by spouse

13. (1) Where the intestate is survived by a spouse and not by a child, the residue of the estate devolves in the following manner:

(a) eighty percent to the surviving spouse,

(b) fifteen percent to the surviving parent, and

(c) five percent in accordance with customary law.

(2) Where there is no surviving parent, eighty percent of the residue of the estate devolves to the surviving spouse and twenty percent in accordance with customary law.

Intestate survived by child

14. (1) Where the intestate is survived by a child and not by a spouse, the residue devolves in the following manner:

- (o) seventy-five percent to the surviving child;
- (@) twenty percent to the surviving parent; and
- c) five percent in accordance with customary law.

(2) Where there is no surviving parent, ninety percent of the estate devolves to the children and ten percent in accordance with customary law.

Intestate survived by parent only

15. Where the intestate is survived by a parent but not by a child and a spouse, ninety percent of the estate devolves to the surviving parent and the remaining ten percent devolves in accordance with customary law.

Devolution of residue where customary law is inapplicable

16. Where customary law is not applicable to the devolution of that part of the estate that is required by virtue of section 5, 13, 14 or 15, to devolve in accordance with customary law, that part of the estate devolves in equal shares to those beneficiaries otherwise entitled to share that part under the relevant provisions of this Act.

Customary law provisions for succession by family

17. Where the rules of succession under customary law applicable to a portion of the estate provide that the family of the intestate is entitled to a share in the estate,

- (a) that family is the family to which the intestate belonged for purposes of succession in accordance with the customary law of the community of which the intestate was a member;
- (@) in the case of an intestate who, being a member of two customary law communities belonged to two families for purposes of succession, that family shall be the two families; or
- (c) in the case of an intestate who is not a member of a family for purposes of succession, that family is the family with

which the intestate was identified at the time of death or, failing that, to the families of the parents of the intestate or failing that to the Republic.

Intestate survived by neither spouse, parent nor child

18. (1) Where the intestate is not survived by a spouse, a child or a parent the estate devolves in accordance with customary law.

(2) Where customary law is not applicable to the devolution of the estate of an intestate who is not survived by a spouse, child or a parent in the circumstances referred to in subsection (1), the estate devolves to the Republic.

(3) Where the estate of an intestate devolves to the Republic and on an application to the court, the court is satisfied that a person who was maintained by the intestate or with whom the intestate was closely identified, should be maintained out of the estate or that a portion of the estate or the whole of the estate should devolve to that person, the court may make an order for the maintenance of that person out of the estate or make an order, that a portion of the estate or the whole estate should devolve to that person.

Small estates

19. Despite sections 4, 5, 13, 14 and 15

- (a) where the total value of the residue does not exceed ten thousand Ghana cedis, the residue shall devolve to a surviving spouse or child of the intestate or both, or
- (b) where the intestate is survived only by a parent and the total value of the estate does not exceed ten thousand Ghana Cedis the estate shall devolve to the surviving parent.

Variation of value of residue

20. The Minister responsible for Justice may, by legislative instrument, vary the maximum value of the estate specified under section 19.

Sharing of portion of residue by two or more persons

21. Where two or more persons are entitled to share a portion of an estate under this Act, they shall divide it among themselves in equal shares.

Presumption on survivorship

22. Where spouses die in circumstances

- (a) in which it appears that their deaths were simultaneous, or
- (b) rendering it uncertain as to which of them survived the other,

the older shall, for the purposes of this Act, be presumed to have predeceased the younger.

Grandchild of intestate

23. Where the intestate is survived by a grandchild whose parent is a child of the intestate who predeceased the intestate, the grandchild, if that grandchild was dependent on the intestate at the time of death, is entitled to the whole or a portion of the estate which would otherwise have devolved to that parent if that parent had not predeceased the intestate.

Prohibition of ejection of spouse

24. A person shall not eject a surviving spouse or a child from the matrimonial home before the distribution of the estate of an intestate where the matrimonial home is

- (a) the self-acquired property of the deceased;
- (b) rented property, unless the ejection is pursuant to a court order;
- (c) the family house of the deceased, unless a period of one year has expired from the date of death of the deceased; or
- (a) is public property, unless a period of three months has expired from the date of death of the deceased.

Miscellaneous Provisions

Offences against spouse and entitled person

25. A person who

- (a) contravenes section 24,
- (b) before the distribution of the estate of an intestate unlawfully deprives the entitled person of the use of
 - (i) a part of the property,
 - (ii) property to which this Act applies, and which is, shared by the entitled person with the deceased, or
- (c) removes, destroys or otherwise unlawfully interferes with the property of the deceased

commits an offence and is liable on summary conviction to a fine of not less than seven hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not less than two years and not more than four years or to both and the court shall make any orders that it considers necessary for the reinstatement of or reimbursement of the person who was ejected or deprived of the use of the property.

Other offences

26. A person who before the distribution of the estate of an intestate
- (a) locks up the property of the deceased, or
 - (b) takes possession of household property within the matrimonial home

commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units or to a term of imprisonment of not less than two years and not more than four years, and the court shall make any other order that it considers necessary for the re-restatement or reimbursement of the spouse or child.

Regulations

27. The Minister may, by legislative instrument, make Regulations to
- (a) prescribe the maximum value of a small estate; and
 - (b) provide generally for the effective implementation of this Act.

Interpretation

28. In this Act, unless the context otherwise requires,
- “child” includes a natural child, whether or not born in wedlock, a person adopted under the Children’s Act, 1998 (Act 560) or under customary law and a person recognised by the person in question as the child of that person or recognised by law as the child of the person;
 - “contribution” includes
 - (a) the payment of money or rendering of service for the acquisition of property;
 - (b) care of a child, the aged, infirm, a relative or dependant of a spouse;
 - (c) giving up a higher standard of living than would otherwise have been available;
 - (d) giving of material assistance, support or otherwise by one spouse to the other which
 - (i) enables the other spouse to acquire a qualification, or
 - (ii) aids the other spouse to carry on the occupation or business of that other spouse;

Intestate Succession Bill, 2022

(r9) the management of the household and the discharge of household duties;

the payment of money or rendering of service to maintain or increase the value of property; and

(g) work on a farm or business of a spouse;

“court” means a court of competent jurisdiction;

“estate” means the self-acquired property which the intestate was legally competent to dispose of during the lifetime of the intestate and in respect of which the interest of the intestate has not been terminated by or on death;

“household property” includes jewellery, clothes, furniture and furnishings, fridge, television, radio, any other electrical and electronic appliances, kitchen and laundry equipment, simple agricultural equipment, hunting equipment, books, motor vehicles, other than vehicles used wholly for commercial purposes, and household livestock;

“incapacitated” means a person who suffers from a mental disorder, is physically challenged or is vulnerable;

“jointly owned property” means property in which each of the parties made a substantial contribution towards the acquisition of the property;

“material assistance” includes health care, shelter, counselling and nutritional requirements;

“matrimonial home” means

(a) the house or premises occupied by the deceased and the surviving spouse, or the deceased and surviving child or all of them at the time of the death of the deceased; or

(b) any other self-acquired house of the deceased occupied by the surviving spouse or child or both at the time of the death of the deceased;

“Minister” means the Minister responsible for Justice;

“necessaries” includes essentials for the health, reasonable shelter and development of a child;

“parent” includes natural mother and father and a person recognised by law as the mother or father of the intestate;

Intestate Succession Bill, 2022

“property” means immovable property, cash and moneys in bank accounts, bonds, proceeds or right to proceeds of an insurance policy payable on the death of the insured person, a lump sum payment provided under a personal or similar plan, damages or a right to damages for personal injuries, nervous shock or mental distress;

“residue” means that part of the estate of the intestate that does not devolve according to sections 3, 4, 8, 10, and 12;

“rules of private international law” include the customary law rules of private international law;

“spouse” includes multiple spouses in a polygynous marriage; and

“will” includes samansiw and any other form of will recognised at customary law.

Repeal and savings

29. (1) The Intestate Succession Act, 1985 (P.N.D.C.L. 111) is hereby repealed.

(2) Despite the repeal of P.N.D.C.L. 111, the notices, orders, directions, appointments or any other act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act and shall continue to have effect until reviewed, cancelled or terminated.

Intestate Succession Bill, 2022

Date of *Gazette* notification: 10* May, 2022.

