

**PNDC LAW 111- INTESTATE SUCCESSION ACT, 1985<sup>1</sup>**  
**AN ACT to provide for intestate succession and for related matters.**

Application of Act<sup>2</sup>

(1) On the commencement of this Act, the devolution of the estate of a person who dies intestate<sup>3</sup> on or after the commencement 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.

Other Provisions

- 1) When a person who dies leaves behind a surviving spouse or child, the spouse or the child or children or all of them, is or are entitled absolutely to any household chattels<sup>4</sup>.
- 2) The spouse and child or children are entitled to one house jointly (even if there is more than one house) in the estate<sup>5</sup> of the deceased and they will hold the property as tenants in common<sup>6</sup>.
- 3) The remaining property in the estate of the deceased after taking care of the chattels and one house are shared in varying proportions between 4 categories of persons in the manner below and depending on who survives the intestate:

Survivors	Surviving spouse (s)	Child or children	Parent(s)	Customary family
Intestate survived by spouse and child. (if no surviving parent a quarter of the residue devolves according to customary law)	3 sixteenth	9 sixteenth	1 eighth	1 eighth

<sup>1</sup> As amended by Intestate Succession Law (Amendment), 1991 (PNDCL 264)

<sup>2</sup> These provisions are of immense significance because they override any earlier law, customary or otherwise that dictated how the estate of a person who died intestate would be dealt with.

<sup>3</sup> A person dies intestate if he/ she does not leave behind a will relating to any or all of his/ her property.

<sup>4</sup> Household chattels are defined to include jewellery, clothes, furniture, furnishings, refrigerator, television, radio, electrical and electronic appliances, kitchen and laundry equipment, simple agricultural equipment, books, motor vehicles not used wholly for commercial purposes and livestock.

<sup>5</sup> The property (net worth) of the intestate whether movable or immovable, less any liabilities.

<sup>6</sup> Meaning the parties have equal and distinct (partitionable) shares in the property.

Survivors	Surviving spouse (s)	Child or children	Parent(s)	Customary family
Intestate survived by spouse only. (where there is no surviving parent, half of the residue devolves under customary law)	One half		One quarter	One quarter
Intestate survived by child/ children only. (where no parent survives the intestate, the one quarter residue devolves under customary law)		3 quarters	One eighth of remaining one quarter	One eighth of remaining one quarter
Intestate survived by parents only			Three quarters	One quarter

- 4) The family that is entitled to the portion of the estate that devolves under customary law is the family according to customary law. If the intestate by custom belongs to 2 families, then the 2 families are entitled. If the deceased does not belong to any family by custom, then it is the family to which the deceased is identified.
- 5) If the value of the remaining estate after taking care of the chattels and house, is not more than GHS50, 000, then all of it will devolve to the spouse and children equally. If no spouse or child survives the intestate, then the whole of the estate will devolve on the parents.
- 6) If a person who dies had a child who died before he/she died, then the child of the deceased child (i.e. the grandchild of the intestate) will be entitled to the portion of the estate which would have devolved to the child of the intestate; if only the grandchildren were dependent on the intestate at the time of death.
- 7) It is an offence to eject a spouse or children of an intestate from the matrimonial home before the estate of the deceased is lawfully distributed. It does not matter whether the matrimonial home is rented premises, self-acquired. A court order is required where the matrimonial home is rented premises.
- 8) If the matrimonial home is a family house, ejection may only be effected after 6 months has expired from the date of death.<sup>7</sup>

<sup>7</sup> But the caveat that ejection may not be done before lawful distribution of the estate must be complied with.