



## Rules of Intestacy in The Bahamas: Part II



As was previously stated, in 1925 sweeping changes were made in land law and in respect of the devolution of real property and distribution of personal property in the United Kingdom which included inter alia that the real property and personal property of an intestate would devolve and be distributed in the same manner and in essence these changes provided for a more equitable distribution of the assets of a person who died intestate. This was the U.K. law by virtue of their Inheritance Act, 1926.

This Act, however, was not extended to The Bahamas at that time and the ancient rules from 1799 to 1914 continued to govern the devolution and distribution of estates in The Bahamas.

Consequently, it was not until the year 2002, that a new Inheritance Act was enacted in The Bahamas, the contents of which mirrors the U.K. Inheritance Act, 1926. This long overdue enactment was most welcomed and necessary especially with regard to the devolution and distribution of the assets of an intestate.

Accordingly, Intestate succession in The Bahamas is now governed by the Inheritance Act, 2002 and (inter alia) it provides for succession to property of deceased persons and distribution on intestacy of such property to a surviving spouse and the children of the deceased (as the case may be), the spouse's entitlement to occupy the matrimonial home, the abolition of dower, the making of financial provisions for dependants of the deceased and for connected purposes. It has introduced fresh provisions relating to the death of persons who die without making a Last Will and Testament.

The Primogeniture rule has been completely abolished as the eldest lawful son is no longer entitled to all of the

intestate's real estate and the provisions for the daughters of an intestate to become co-parceners no longer exists. The surviving spouse is now entitled to one-half of the intestate's assets and the children of the intestate now share the remaining one-half interest equally between themselves. The surviving spouse is entitled to occupy the matrimonial home and the infant children of the marriage, if any.

There is no provision for escheat to the Crown as the Act provides that where there is no spouse or there are no children of the deceased, the next-of-kin must be determined.

In cases, where immovable property is owned in The Bahamas by non-Bahamians the devolution of such real property will be governed by the laws of the Commonwealth of The Bahamas. However, the distribution of personal property owned in The Bahamas by a non-Bahamian will be governed by the law of the place of domicile of the intestate.

The Inheritance Act, 2002 now governs the law regarding the administration of an Estate when a person dies intestate, that is, without having made a Last Will and Testament. However, there are many estates which have not been administered for persons who died intestate prior to February, 2002 and in order to facilitate processing of these applications by the Court, the ancient Rules of Intestacy remain in place.

The information stated above is not intended to be construed as legal advice in anyway.

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