

A SIMPLE GUIDE ON THE LAW OF INTESTATE SUCCESSION (WHERE NO VALID WILL IS LEFT BEHIND)

What happens to my property when I die without making a valid Will?

1. Intestate succession is the type of succession where a person dies without having made a Will as per The Succession Act, 2022 as amended.

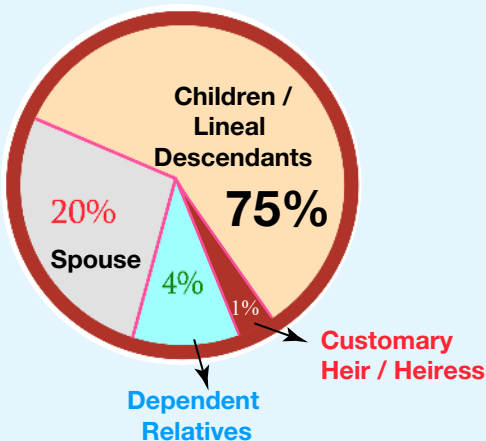
2. Who benefits from my estate when I die without writing a Will?

The following will benefit; wives or husbands, children (biological, adopted and born out of wedlock), customary heirs/heirress, and dependent relatives.

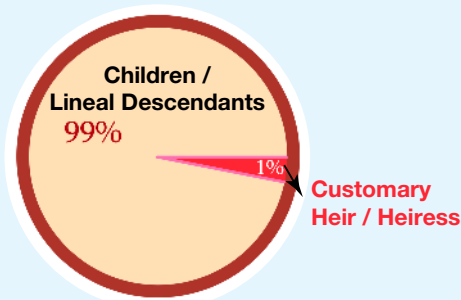
How is property divided under intestate succession?

The estate of a person dying without a will with the exception of his principal residential home shall be divided among the following classes in the following manner;

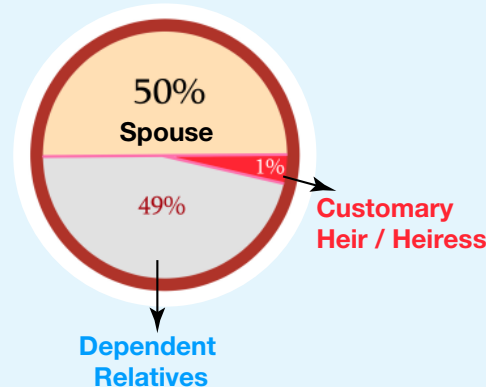
1. Where the deceased is survived by; a spouse, children, a dependent relative, and a 'customary heir/heirress' (Section. 27 (1) (a) of the law.



2. Where there is no surviving spouse or dependent relative capable of taking a proportion of his or her property but there are child/ren and 'customary heir/ress' (Section. 27 (1) (b) of the law.



3. Where there is a surviving spouse or dependent relative, customary heir/heirress but there are no children (Section. 27 (1) (c) of the law.



4. Where a deceased is survived by only a 'customary heir/heirress' and there is no surviving spouse, child/ren or dependent relative, the property will be divided equally amongst the person's nearest relatives. (Section. 27 (1) (e) of the law.

Note:

- A spouse who remarries before the estate of the deceased is distributed shall be entitled to his or her share (Section. 27 (7) of the law.
- Where the customary heir/heirress is at the same time a child of the intestate, she/he shall in addition to his or her share be entitled to a share as a "child." (Section. 27 (8) of the law.
- The Administrator(s) must set aside 25% of the estate for the education, maintenance, and welfare of the following categories of lineal descendants until they cease to qualify as such;

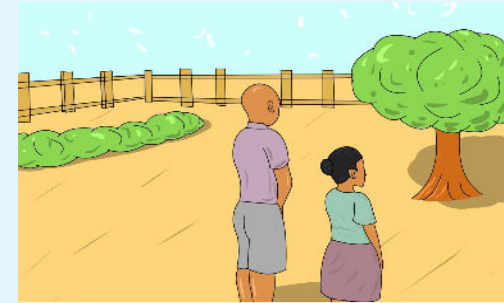
a) A minor child of the intestate until he or she attains eighteen years of age,

b) A child of the deceased who is above eighteen years of age but below twenty-five years of age if, at the time of the death of the intestate, was undertaking studies and was not married;

c) A lineal descendant of the intestate, who has a disability at the time of the death of the intestate, was not married and was wholly dependent on the intestate for his or her livelihood.

- Where an estate produces an income by way of periodical payments, 25% is expected to come from that income.

Is a child below the age of 18 years entitled to a share under intestate succession?



YES

The law provides that where a person entitled to a share in the distribution of the estate of a deceased person is a minor, the executor/administrator shall deliver the share of the minor to the guardian of the minor.

LETTERS OF ADMINISTRATION

The surviving spouse (widow/widower) shall have preference over any other person in the administration of the estate of the deceased intestate. (Section. 42 of the law)

OFFENCES UNDER INTESTATE SUCCESSION

- A person who before the grant of letters of administration, misuses the estate of the deceased, or subjects it to loss or damage shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of 2 years or to a fine not exceeding 48 currency points (nine hundred and sixty thousand uganda shillings).

- In addition to the penalty above, a person shall be liable to pay to the estate and the beneficiaries of the estate the loss or damage so caused.

- A person who engages in (a. forgery of letters of administration or probate b. forgery of documents used in applying for letters of administration or probate).

Commits an offence and is liable on conviction to imprisonment for a maximum of 3 years or a fine of 1,440,000 uganda shillings or both

- A person who evicts or attempts to evict a surviving spouse (widow/widower), children or dependent relative commits an offence and is liable on conviction to a fine not exceeding 168 currency points (3,360,000) or imprisonment not exceeding 7 years or both.

NOTE: Dependant relative needs a person who was totally under the care of the deceased person by the time of his/her death.
One currency point = 20,000 uganda shillings