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3rd SESSION, 67th GENERAL ASSEMBLY  
Province of Prince Edward Island  
4 CHARLES III, 2026

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**(Bill No. 7)**

**Intestate Succession Act**

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Hon. Bloyce Thompson  
Minister of Justice and Public Safety and Attorney General

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GOVERNMENT BILL

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Andrea MacRae  
Acting King's Printer  
Charlottetown, Prince Edward Island





## INTESTATE SUCCESSION ACT

BILL NO. 7

2026

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

### PART 1 - INTERPRETATION AND APPLICATION

#### 1. Definitions

(1) In this Act,

- (a) “**court**” means the Estates Section of the Supreme Court;
- (b) “**descendant**” means all lineal descendants of a person, through all generations;
- (c) “**estate**” includes both real and personal property;
- (d) “**former Act**” means Part IV of the *Probate Act* R.S.P.E.I. 1988, Cap. P-21;
- (e) “**intestate**” means a person who dies without a will;
- (f) “**net value**”, with respect to an estate, means the value of the estate wherever situated, both within and outside of Prince Edward Island, after payment of any charges on the estate and the debts, funeral expenses and expenses of administration;
- (g) “**spouse**” means a spouse as defined in clause 29(b) of the *Family Law Act* R.S.P.E.I. 1988, Cap. F-2.1;
- (h) “**will**” means a will as defined in section 1 of the *Wills Act* R.S.P.E.I. 1988, Cap. W-4.2.

#### Application of this Act

(2) This Act applies only in cases of death that occur on or after the date this Act comes into force.

#### Application of former Act

(3) Despite the repeal of the former Act, the former Act continues to apply in cases of death that occur before the date on which this Act comes into force.

#### 2. Act subject to court order

This Act is subject to any court order made pursuant to the *Dependants of a Deceased Person Relief Act* R.S.P.E.I. 1988, Cap. D-7.

## **PART 2 - DISTRIBUTION OF ESTATE WHEN THERE IS NO WILL**

### **3. Spouse but no descendant**

Where an intestate dies leaving a surviving spouse but no surviving descendant, the intestate's estate shall be distributed to the spouse.

### **4. Spouse and descendants**

- (1) Subject to section 10, where an intestate dies leaving a surviving spouse and one or more descendants, and all of the intestate's descendants are also descendants of the spouse, the entirety of the intestate's estate shall be distributed to the spouse.

#### **Exception**

- (2) Subject to section 10, where an intestate dies leaving a surviving spouse and one or more descendants, and one or more of the intestate's descendants are not descendants of the spouse,
- (a) where the net value of the intestate's estate does not exceed the prescribed amount, the entirety of the estate shall be distributed to the spouse; or
  - (b) where the net value of the intestate's estate exceeds the prescribed amount,
    - (i) the spouse is entitled to the prescribed amount and has a charge of the estate for that amount,
    - (ii) after payment to the spouse of the prescribed amount under subclause (i),
      - (A) where the intestate dies leaving a spouse and one child, one-half of the residue of the estate shall be distributed to the spouse, or
      - (B) where the intestate dies leaving a spouse and children, one-third of the residue of the estate shall be distributed to the spouse, and
    - (iii) after distribution to the spouse in accordance with subclause (ii), the residue of the estate shall be distributed to the descendants of the intestate in accordance with section 6.

#### **Effect of death of child of intestate**

- (3) Where a child of the intestate has died and has one or more descendants who are alive at the date of the intestate's death, the surviving spouse shall take the same share of the estate as if the child had been living at that date.

### **5. No spouse but descendants, relatives**

- (1) Subject to subsection (2) and section 6, where an intestate dies without leaving a surviving spouse, the intestate's estate shall be distributed
- (a) to the intestate's descendants;
  - (b) if there is no surviving descendant, to the intestate's parents in equal shares or to the intestate's surviving parent;
  - (c) where there is no surviving descendant or parent, to the descendants of the intestate's parents or parent;
  - (d) where there is no surviving descendant, parent or descendant of a parent, but the intestate is survived by one or more grandparents or descendants of grandparents,
    - (i) an equal part to the surviving parents or parent of each of the intestate's parents, in equal shares of the part, but if a parent of the intestate has no surviving parents, that part to the descendants of those deceased grandparents, and

- (ii) for the purposes of subclause (i), a part is determined by dividing the estate by the number of parents of the intestate
  - (A) who have a surviving parent, or
  - (B) who do not have a surviving parent but whose deceased parents have a surviving descendant;
- (e) where there is no surviving descendant, parent, descendant of a parent, grandparent or descendant of a grandparent, but the intestate is survived by one or more great-grandparents or descendants of great-grandparents,
  - (i) an equal part to the surviving grandparents or grandparent of each of the intestate's parents, in equal shares of the part, but if a grandparent of the intestate has no surviving parents, that part to the descendants of those deceased great-grandparents, and
  - (ii) for the purpose of subclause (i), a part is determined by dividing the estate by the number of parents of the intestate
    - (A) who have a surviving grandparent, or
    - (B) who do not have a surviving grandparent but whose deceased grandparents have a surviving descendant; or
- (f) where there is no person who is entitled under clauses (a) to (e), the whole of the intestate's estate passes to the Government and is subject to the *Escheats Act* R.S.P.E.I. 1988, Cap. E-10.

**Effect of remote relationship**

- (2) For the purposes of this section, persons of the fifth or greater degree of relationship to the intestate are conclusively deemed to have predeceased the intestate, and any part of the intestate's estate to which those persons would otherwise be entitled shall be distributed to other descendants entitled to the estate.

**Exception**

- (3) Subsection (2) does not affect the right of an intestate's descendants to inherit the intestate's estate even though they are of a greater degree of relationship than the limit imposed by that subsection.

**Computing degrees of relationship**

- (4) For the purposes of subsection (2),
  - (a) degrees of relationship are to be computed by counting upward from the intestate to the nearest common ancestor of the intestate and the intestate's relative, and then downward to the relative; and
  - (b) relatives of the half kinship inherit equally with those of the whole kinship in the same degree.

**6. Distribution to descendants**

- (1) Where a distribution is to be made under this Act to the descendants of a person, the property that is to be distributed shall be divided into a number of equal shares equivalent to the number of
  - (a) surviving descendants; and
  - (b) deceased descendants who have left descendants surviving the person, in the generation nearest to the person that contains one or more surviving members.

**Distribution of shares**

- (2) Each surviving member of the generation nearest to the person that contains one or more surviving members shall receive one share, and the share that would have been distributed to each deceased member if surviving shall be divided among that member's descendants in the same manner as under subsection (1) and this subsection.

**7. Advancement to descendant**

- (1) Where an intestate has provided a portion of the intestate's estate to a descendant as an advancement prior to the intestate's death, that portion shall be considered part of the distributable estate of the intestate.

**Advancement equal to or greater than entitlement**

- (2) Where the advancement referred to in subsection (1) is equal to or greater than the descendant's entitlement under this Part, the descendant is excluded from a further share of the estate.

**Advancement less than entitlement**

- (3) Where the advancement referred to in subsection (1) is less than the descendant's entitlement under this Part, the descendant's share of the estate under section 6 shall be reduced by the amount of the advancement.

**Value of advancement**

- (4) For the purposes of this section, the value of the advancement is
- (a) the value expressed by the intestate or acknowledged by the descendant in writing; or
  - (b) where clause (a) does not apply, the value of the portion of the estate transferred to the descendant on the date it was advanced.

**Onus of proof**

- (5) The onus of proving that a descendant has been advanced a portion of the intestate's estate is on the person asserting it unless the advancement has been expressed by the intestate or acknowledged by the descendant in writing.

**8. Posthumous births**

Descendants and relatives of the intestate conceived before the intestate's death but born after the intestate's death shall inherit as if they had been born in the intestate's lifetime and had survived the intestate.

**9. Partial intestacy**

Any portion of an estate that is not disposed of by will shall be distributed as though the testator died intestate and left no other estate.

**10. When separated spouse takes no part in estate**

- (1) Subject to subsection (2), the spouse of an intestate takes no part in the estate if the intestate and the spouse
- (a) have been living separate and apart within the meaning of subsection 1(3) of the *Family Law Act* for more than two years at the time of the intestate's death;
  - (b) were opposing parties to a proceeding under the *Divorce Act* (Canada) or the *Family Law Act* at the time of the intestate's death; or

- (c) are parties to an agreement or an order with respect to their property or other spousal or family issues that appears to separate and finalize their affairs in recognition of the termination of their spousal relationship.

**Exception**

- (2) Subjection (1) does not apply to a spouse who has reconciled with the intestate if the reconciliation was subsisting at the time of the intestate's death.

**Spouse cohabiting with other person**

- (3) Where the spouse of the intestate has left the intestate and is cohabitating with another person in a spousal relationship at the time of the intestate's death, the spouse takes no part in the estate.

## PART 3 - GENERAL

### 11. Definition, "immovable property"

- (1) In this section, "immovable property" includes real property and a leasehold or other interest in land.

**Conflict of laws**

- (2) The distribution of an intestate's immovable property that is located in Prince Edward Island shall be dealt with in accordance with the laws of Prince Edward Island despite that the intestate resided outside of Prince Edward Island at the time of death.

### 12. Regulations

The Lieutenant Governor in Council may make regulations

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing the amount for the purposes of section 4, including prescribing different amounts for different periods;
- (c) prescribing any matter or thing that is required or authorized by this Act to be prescribed in regulations;
- (d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

### 13. Repeal

Part IV of the *Probate Act* R.S.P.E.I. 1988, Cap. P-21, is repealed.

### 14. Commencement

This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

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(Bill No. 7)

**Intestate Succession Act**

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	March 26, 2026
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

**SIGNATURES:**

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Honourable Dr. Wassim Salamoun, Lieutenant Governor

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Honourable Brad Trivers, Speaker

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Joseph Jeffrey, Clerk

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Hon. Bloyce Thompson  
Minister of Justice and Public Safety and Attorney General

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