

Ghana

Intestate Succession Law 1981

Provisional National Defence Council Law 111

Section 1 – Application of Law

(1)

On the commencement of this Law, the devolution of the estate of any person who dies intestate on or after such commencement shall be determined in accordance with the provisions of this Law subject to subsection (2) of this section and the rules of private international law.

(2)

This Law shall not apply to any stool, skin or family property.

[...]

Section 18 – Interpretation

In this Law, except where the context otherwise requires:

‘rules of private international law’ include such customary law rules of private international law for the time being in force.

Matrimonial Causes Act 1971

Act 367

Part IV – Jurisdiction

[...]

Section 31 – General Matrimonial Jurisdiction

The court shall have jurisdiction in any proceedings under this Act where either party to the marriage:

- (a) is a citizen of Ghana; or
- (b) is domiciled in Ghana; or
- (c) has been ordinarily resident in Ghana for at least three years immediately preceding the commencement of the proceedings.

Section 32 – Domicile of Married Women

For the sole purpose of determining jurisdiction under this Act, the domicile of a married woman shall be determined as if the woman was above the age of twenty-one and not married.

Section 33 – Additional Jurisdiction Relating to Financial Provision

In addition to any other jurisdiction conferred by this Act, the court shall have jurisdiction, where a party who may be ordered to make financial provision has assets in Ghana, to order that party to make financial provision not exceeding the value of those assets.

Section 34 – Additional Jurisdiction Relating to Child Custody

In addition to any other jurisdiction conferred by this Act, the court shall have jurisdiction to make child custody arrangements whenever the child whose custody is in question is present in Ghana.

Section 35 – Choice of Law

In any proceedings under this Act, except in proceedings for a decree of nullity of a void marriage, the issues shall be determined as if both parties to the marriage were domiciled in Ghana at the commencement of the proceedings.

Section 36 – Recognition of Foreign Decrees

The court shall recognize as valid a decree of divorce, nullity or presumption of death and dissolution of marriage, obtained by judicial process or otherwise, which is not contrary to natural justice, and which:

(a) has been granted by any tribunal which had a significant and substantial connection with the parties to the marriage; or

(b) is in accordance with the law of the place where both parties to the marriage were ordinarily resident at the time of the action dissolving or annulling the marriage.

Wills Act 1971

Act 370

[...]

Section 15 – Wills Made Outside Ghana

(1) A will shall be deemed to be properly executed if its execution conformed to the internal law in force in the territory where it was executed, or in the territory where at the time of its execution or of the testator's death, he was domiciled or had his habitual residence or in a state of which he was a national at either of those times.

(2) Without prejudice to subsection (1), the following shall be deemed to be properly executed:

(a) a will executed on board a vessel or aircraft of any description, if its execution conformed to the internal law in force in the territory with which having regard to its registration if any and other relevant circumstances, the vessel or aircraft may be taken to have been most closely connected;

(b) a will so far as it disposes of immovable property, if its execution conformed to the internal law in force in the territory where the property was situated;

(c) a will so far as it revokes a will which under this Act would be deemed to be properly executed or revokes a provision which under this Act would be deemed to be comprised in a properly executed will, if the execution of the later will conforms to any law by reference to which the revoked will or provision would be so deemed;

(d) a will so far as it exercises a power of appointment if the execution of the will conformed to the law governing the essential validity of the power.

(3) A will so far as it exercises a power of appointment shall not be deemed to be improperly executed by reason only that its execution was not in accordance with any formal requirements contained in the instrument creating the power.

(4) Where a law in force outside Ghana falls to be applied in relation to a will, any requirement of that law whereby:

(a) special formalities are to be observed by testators answering a particular description; or

(b) witnesses to the execution of a will are to possess certain qualifications, shall be deemed to be a formal requirement only, notwithstanding any rule of that law to the contrary.

Section 16 – Change of Domicile

A will shall not be held to be revoked or to have become invalid, and its construction shall not be altered, by reason of any subsequent change of domicile of the testator.

Section 17 – Ascertainment of Internal Law

(1) Where under this Act the internal law in force in any territory or state is to be applied in the case of a will, but there are in force in that territory or state two or more systems of internal law relating to the formal validity of wills, the system to be applied shall be ascertained as follows:

(a) if there is in force throughout the territory or state a rule indicating which of those systems can properly be applied in the case in question, that rule shall be followed; or

(b) if there is no such rule, the system shall be that with which the testator was most closely connected at the relevant time; and for this purpose the relevant time is the time of the testator's death where the matter is to be determined by reference to circumstances prevailing at his death, and the time of execution of the will in any other case.

(2) In determining for the purposes of this Act whether or not the execution of a will conformed to a particular law, regard shall be had to the formal requirements of that law at the time of execution, but this shall not prevent account being taken of an alteration of law affecting wills executed at that time if the alteration enables the will to be treated as properly executed.

Section 18 – Interpretation

In this Act, unless the context otherwise requires:

‘internal law’ in relation to any territory or state means the law which would apply in a case where no question of law in force in any other territory or state arises;

‘property’ includes movable and immovable property and any right, benefit, expectancy or other interest;

‘state’ means a territory or group of territories having its own law of nationality;

‘will’ includes a codicil and any other testamentary instrument, and

‘testator’ shall be construed accordingly.