

BILL 29

2002

INTESTATE SUCCESSION AMENDMENT ACT, 2002

(Assented to _____, 2002)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cl-10

1 The *Intestate Succession Act* is amended by this Act.

2 Section 1 is amended

(a) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):

(a) “adult interdependent partner” means, in reference to an intestate, a person, including a minor, who lived with the intestate in a conjugal relationship, outside marriage,

(i) for a continuous period of not less than 3 years immediately before the intestate’s death, or

(ii) of some permanence immediately before the intestate’s death, if there is a child of the relationship by birth or adoption;

(b) by adding the following after clause (c):

(d) “spouse” means, in reference to an intestate, a person who at the time of the intestate’s death was married to the intestate.

3 The following is added after section 3:

Adult interdependent partner and no spouse

3.1 If an intestate dies leaving no surviving spouse but leaving a surviving adult interdependent partner, the surviving adult interdependent partner shall be treated for the purposes of this Act as if he or she were the surviving spouse of the intestate.

Spouse and adult interdependent partner

3.2 If an intestate dies leaving a surviving spouse and a surviving adult interdependent partner,

- (a) the surviving spouse shall take no part in the intestate's estate, and
- (b) the surviving adult interdependent partner shall be treated for the purposes of this Act, except clause (a), as if he or she were the surviving spouse of the intestate.

4 Section 4 is amended by adding “or adult interdependent partner” after “spouse”.

5 Section 5 is amended by adding “, adult interdependent partner” after “spouse”.

6 Sections 6, 7 and 8 are amended by adding “adult interdependent partner,” after “spouse.”

7(1) In this section, “previous Act” means the *Intestate Succession Act* as it read immediately before it was amended by this Act.

(2) The previous Act continues to apply in cases of death occurring before this Act comes into force.

Explanatory Notes

1 Amends chapter I-10 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads:

1 In this Act,

- (a) *“estate” includes both real and personal property;*
- (b) *“issue” includes all lineal descendants, whether born within or outside marriage, of the ancestor;*
- (c) *“net value” means the value of the estate wherever situated, both within and outside Alberta, after payment of the charges on it and the debts, funeral expenses, expenses of administration, estate tax and succession duty.*

3 Sections added to recognize adult interdependent partners.

4 Section 4 presently reads:

4 If an intestate dies leaving issue, the estate shall be distributed, subject to the rights of the surviving spouse, per stirpes among the issue.

5 Section 5 presently reads:

5 If an intestate dies leaving no surviving spouse or issue, the intestate’s estate goes to the intestate’s father and mother in equal shares if both are living, but if either of them is dead the estate goes to the other of them if still living.

6 Sections 6, 7 and 8 presently read:

6 If an intestate dies leaving no surviving spouse, issue, father or mother, the intestate’s estate goes to the intestate’s brothers and sisters in equal shares, and if any brother or sister is dead, the children of the deceased brother or sister take the share their parent would have taken if living.

7 If an intestate dies leaving no surviving spouse, issue, father, mother, brother or sister, the intestate’s estate goes to the intestate’s nephews and nieces in equal shares and in no case shall representation be admitted.

8 If an intestate dies leaving no surviving spouse, issue, father, mother, brother, sister, nephew or niece, the intestate's estate shall be distributed equally among the next of kin of equal degree of consanguinity to the intestate and in no case shall representation be admitted.

7 Transitional provision.