

Chapter 332.  
***Simultaneous Deaths Act 1962.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 332.

*Simultaneous Deaths Act 1962.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Simultaneous Deaths Act 1962,*

Being an Act to provide for the devolution of property in the event of simultaneous deaths, or deaths as to which there is a doubt as to the order of deaths, and for related purposes.

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**person to whom this Act applies**” has the meaning given to it by Section 3(2);

“**property**” includes—

- (a) an estate or interest in any property; and
- (b) a debt or thing in action; and
- (c) any other right or interest.

**2. APPLICATION.**

(1) Subject to Section (3), this Act applies to and in relation to—

- (a) any property that devolves according to the laws of Papua New Guinea; and
- (b) any appointment of a trustee that is to be made according to the laws of Papua New Guinea.

(2) This Act applies whether a death concerned occurred in the country or elsewhere.

(3) This Act does not apply to or in relation to any property the devolution of which is governed by custom.

(4) This Act applies notwithstanding anything in any other law.

**3. PERSONS TO WHOM THIS ACT APPLIES.**

(1) This Act applies when two or more persons die or have, after 1 January 1963 (being the date of commencement of the pre-Independence *Law Reform (Miscellaneous Provisions) Act 1962*), died—

- (a) at the same time; or
- (b) in circumstances that give rise to doubt as to which of them survived the other or others.

(2) The persons to whom this Act applies in any particular case are the persons concerned whose deaths occurred in the circumstances set out in Subsection (1).

**4. WILLS AND DEVOLUTION OF PROPERTY.**

(1) Subject to Subsection (2), the property of each person to whom this Act applies devolves, and if he left a will it takes effect as if he had survived the other such person or persons and had died immediately afterwards.

(2) In relation to the effect of a will, Subsection (1) applies subject to any contrary intention shown by the will.

**5. DONATIONS MORTIS CAUSA.**

A *donatio mortis causa* made by a person to whom this Act applies to another such person is void and of no effect.

**6. INSURANCE.**

(1) Subject to Subsection (2), if—

- (a) the life of a person to whom this Act applies was insured under a policy of life or accident insurance; and
- (b) another such person would, if he had survived the insured person, have been entitled (otherwise than under a will or on an intestacy) to the proceeds, or part of the proceeds, of the policy,

the proceeds shall be distributed as though the insured person had survived all the other persons to whom this Act applies and had died immediately afterwards.

(2) Subsection (1) applies subject to any contrary intention shown by the instrument governing the distribution of the proceeds of the property.

**7. JOINT PROPERTY.**

Any property owned jointly and exclusively by two or more of the persons to whom this Act applies, other than property owned by them as trustees, devolves as if it had been owned by them when they died as tenants in common in equal shares.

## **8. INTERESTS OF POSSIBLE BENEFICIARIES.**

(1) This section applies to a case where under a will, trust or other disposition, property would have passed to any of two or more possible beneficiaries who are persons to whom this Act applies if any of them could have been shown to have survived the other or others, other than a case to which Section 6 or 9 applies.

(2) Subject to Subsection (3), in a case to which this section applies the will, trust or disposition takes effect as if the property had been given to the possible beneficiaries, and the property devolves accordingly.

(3) Subsection (2) applies subject to any contrary intention shown by the will, trust or disposition.

## **9. POWERS OF APPOINTMENT.**

(1) This section applies to a case where a power of appointment could have been exercised, in respect of any property, by any of two or more persons to whom this Act applies if any of them could have been shown to have survived the other or others, other than a case to which Section 6 applies.

(2) Subject to Subsection (4), in a case to which this section applies the power of appointment may be exercised as if—

- (a) an equal share of the property had been set aside for appointment by each of the persons referred to in Subsection (1), and
- (b) each of them had the power of appointment in respect of the share so set aside for appointment by him.

(3) Subject to Subsection (4), the share deemed by Subsection (2) to be set aside for appointment by any one of the persons referred to in Subsection (1) devolves, in default of an appointment by him, in the same manner as it would have devolved in default of an appointment by him if he had been the survivor of them.

(4) Subsections (2) and (3) apply subject to any contrary intention shown by the instrument creating the power of appointment.

## **10. GIFTS TO CERTAIN ISSUE.**

(1) This section applies in a case where—

- (a) the persons to whom this Act applies include a testator and one or more of his issue; and
- (b) Section 33 of the *Wills, Probate and Administration Act 1966* applies.

(2) Subject to Subsection (3), in a case to which this section applies—

- (a) for the purposes of Section 33 of the *Wills, Probate and Administration Act 1966* the testator shall be deemed to have survived all his issue referred to in subsection (1)(a); and
- (b) a devise or bequest by the testator to any of his issue who dies or has already died in the testator's lifetime—

- (i) lapses unless any of the donee's issue (other than a person to whom this section applies) is living at the time of the testator's death; and
- (ii) takes effect in accordance with Section 33 of the *Wills, Probate and Administration Act 1966* if any such other issue is living at that time.

(3) Subsection (2)(b) applies subject to any contrary intention shown by the will of the testator.

**11. EFFECT OF SIMULTANEOUS, ETC., DEATHS IN OTHER CASES.**

For all purposes, other than those referred to in Sections 4 to 10, affecting the title to property or the appointment of trustees, the deaths of the persons to whom this Act applies shall be presumed to have occurred in order of seniority, and the younger shall be deemed to have survived the elder.

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