



# LAWS OF MALAYSIA

REPRINT

**Act 300**

## **DISTRIBUTION ACT 1958**

*Incorporating all amendments up to 1 January 2006*

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**DISTRIBUTION ACT 1958**

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No. 1 of 1958)

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*PREVIOUS REPRINT*

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**LAWS OF MALAYSIA****Act 300****DISTRIBUTION ACT 1958**

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# LAWS OF MALAYSIA

## Act 300

### DISTRIBUTION ACT 1958

An Act relating to the law of distribution of intestate estates.

[*Peninsular Malaysia—1 May 1958;*  
*Sarawak—12 December 1986,*  
*P.U. (A) 446/1986]*

#### Short title and application

1. (1) This Act may be cited as the Distribution Act 1958.

\*(2) This Act shall apply to Peninsular Malaysia only.

#### Application

2. Nothing in this Act shall apply to the estate of any person professing the Muslim religion or shall affect any rules of Muslim law as varied by local custom in respect of the distribution of the estate of any such person nor shall this Act apply to any estate, the distribution of which is governed by the Parsee Intestate Succession Ordinance of the Straits Settlements [*S.S. Cap. 54*].

#### Interpretation

\*3. In this Act, unless the context otherwise requires—

“child” means a legitimate child and where the deceased is permitted by his personal law a plurality of wives includes a child by any of such wives, but does not include an adopted child other than a child adopted under the provisions of the Adoption Act 1952 [*Act 257*];

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\*NOTE—In its application to Sarawak—*see* Modification of Laws (Distribution) Act 1958 (Extension to the State of Sarawak) Order 1986 [*P.U. (A) 446/1986*].

“intestate” includes any person who leaves a will but dies intestate as to some beneficial interest in his property;

“issue” includes children and the descendants of deceased children;

“parent” means the natural mother or father of a child, or the lawful mother or father of a child under the Adoption Act 1952;

“Peninsular Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory.

### **Law regulating distribution**

**4.** (1) The distribution of the movable property of a person deceased shall be regulated by the law of the country in which he was domiciled at the time of his death.

(2) The distribution of the immovable property of a person deceased intestate shall be regulated by this Act wherever he may have been domiciled at the time of his death.

### **Persons held to be similarly related to deceased**

**5.** For the purpose of distribution under this Act, there shall be no distinction between those who are related to the deceased person through his father and those who are related to him through his mother, nor between those who are related to him by the full blood and those who are related by the half blood, nor between those who were actually born in his lifetime and those who at the date of his death were only conceived in the womb but who have subsequently been born alive.

### **Succession to intestate estates**

**6.** (1) After the commencement of this Act, if any person shall die intestate as to any property to which he is beneficially entitled for an interest which does not cease on his death, such property

or the proceeds thereof after payment thereof of the expenses of due administration shall, subject to the provisions of section 4, be distributed in the manner or be held on the trusts mentioned in this section, namely—

- (a) if an intestate dies leaving a spouse and no issue and no parent or parents, the surviving spouse shall be entitled to the whole of the estate;
- (b) if an intestate dies leaving no issue but a spouse and a parent or parents, the surviving spouse shall be entitled to one-half of the estate and the parent or parents shall be entitled to the remaining one-half;
- (c) if an intestate dies leaving issue but no spouse and no parent or parents, the surviving issue shall be entitled to the whole of the estate;
- (d) if an intestate dies leaving no spouse and no issue but a parent or parents, the surviving parent or parents shall be entitled to the whole of the estate;
- (e) if an intestate dies leaving a spouse and issue but no parent or parents, the surviving spouse shall be entitled to one-third of the estate and the issue the remaining two-thirds;
- (f) if an intestate dies leaving no spouse but issue and a parent or parents, the surviving issue shall be entitled to two-thirds of the estate and the parent or parents the remaining one-third;
- (g) if an intestate dies leaving a spouse, issue and parent or parents, the surviving spouse shall be entitled to one-quarter of the estate, the issue shall be entitled to one-half of the estate and the parent or parents the remaining one-quarter;
- (h) subject to the rights of a surviving spouse or a parent or parents, as the case may be, the estate of an intestate who leaves issue shall be held on the trusts set out in section 7 for the issue;
- (i) if an intestate dies leaving no spouse, issue, parent or parents, the whole of the estate of the intestate shall be

held on trusts for the following persons living at the death of the intestate and in the following order and manner, namely:

Firstly, on the trusts set out in section 7 for the brothers and sisters of the intestate in equal shares; but if no person takes an absolutely vested interest under such trusts, then

Secondly, for the grandparents of the intestate, and if more than one survive the intestate in equal shares absolutely; but if there are no grandparents surviving, then

Thirdly, on the trusts set out in section 7 for the uncles and aunts of the intestate in equal shares; but if no person takes an absolutely vested interest under such trusts, then

Fourthly, for the great grandparents of the intestate and if more than one survive the intestate in equal shares absolutely; but if there are no such great grandparents surviving, then

Fifthly, on the trusts set out in section 7 for the great grand uncles and great grand aunts of the intestate in equal shares.

(j) In default of any person taking an absolute interest under the foregoing provisions the Government shall be entitled to the whole of the estate except insofar as the same consists of land.

(2) If any person so dying intestate be permitted by his personal law a plurality of wives and shall leave surviving him more wives than one, such wives shall share among them equally the share which the wife of the intestate would have been entitled to, had such intestate left one wife only surviving him.

(3) When the intestate and the intestate's husband or wife have died in circumstances rendering it uncertain which of them survived the other, this section shall, notwithstanding any rule of law to the contrary, have effect as regards the intestate as if the husband or wife had not survived the intestate.



**Trusts in favour of issue and other classes of relatives of intestate**

7. (1) Where under the provisions of section 6, the estate of an intestate or any part thereof is directed to be held on the trusts set out in this section for the issue of the intestate, the same shall be held in trust in equal shares if more than one for all or any of the children or child of the intestate living at the death of the intestate, who attain the age of majority or marry under that age, and for all or any of the issue living at the death of the intestate, who attain the age of majority or marry under that age, of any child of the intestate who predeceases the intestate, such issue to take through all degrees according to their stocks, in equal shares if more than one, the share which their parent would have taken if living at the death of the intestate, and so that no issue shall take whose parent is still living at the death of the intestate and so capable of taking.

(2) Where under section 6 the estate of an intestate or any part thereof is directed to be held on the trusts set out in this section for any class of relatives of the deceased other than issue of the intestate, the same shall be held on trusts corresponding to the trusts set out in subsection (1) of this section for the issue of the intestate as if such trusts were repeated with the substitution of references to the members or member of that class for references to the children or child of the intestate.

(3) If the trusts in favour of the issue of the intestate fail by reason of no child or other issue attaining an absolutely vested interest, the estate of the intestate and the income thereof and all accumulations, if any, of the income thereof or so much thereof as may not have been paid or applied under any power affecting the same, shall go, devolve and be held under the provisions of this Act as if the intestate had died without leaving issue living at the death of the intestate, and accordingly references in section 6 to the intestate “leaving issue” and “leaving no issue” shall be construed respectively as referring to the intestate leaving issue or leaving no issue who attain an absolutely vested interest.

**Application to cases of partial intestacy**

8. Where any person dies leaving a will beneficially disposing of part of his property, the provisions of this Act shall have effect as respects the part of his property not so disposed of, subject to the provisions contained in the will:

Provided that the personal representative shall, subject to his rights and powers for the purposes of administration, be a trustee for the persons entitled under this Act in respect of the part of the estate not expressly disposed of unless it appears by the will that the personal representative is entitled to take such part beneficially.

### **Children's advancements not to be taken into account**

9. Where a distributive share of the property of a person dying intestate is claimed by a child or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given or settled to or for the advancement of the child by whom or by whose descendant the claim is made shall be taken into account in estimating such distributive share.

### **Repeal**

10. The Enactments set out in the Schedule to this Act are repealed.

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#### SCHEDULE

[Section 10]

F.M.S. Cap. 71	The Distribution Enactment
Johore Enactment No. 13 of 1935	The Distribution Enactment 1935
Kelantan Enactment No. 15 of 1930	The Distribution Enactment 1930
Kedah Enactment No. 22 of 1354	The Distribution Enactment

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## LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A281	Distribution (Amendment) Act 1975	28-02-1975
Act A1004	Distribution (Amendment) Act 1997	31-08-1997

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## LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
3	Act A1004	31-08-1997
6	Act A1004	31-08-1997
7	Act A281	28-02-1975

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