

TRINIDAD AND TOBAGO.

Distributions.

No. 8.—1902.

17th December, 1900.

AN ORDINANCE to amend and consolidate the law relating to the distribution of the estates of intestates.

[L.S.]

ALFRED MOLONEY,

GOVERNOR.

26th March, 1902.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :—

1. This Ordinance shall be cited as “The Distributions Ordinance, 1900” and shall be read with “The Property Devolution Ordinance, 1900” and “The Wills and Probate Ordinance, 1900,” and shall come into operation together with the same on the first day of July, 1901. Title and commencement.

2. In the case of the death intestate or partially intestate of any person after the commencement of this Ordinance, the right to succeed or participate Application Ordinance.

beneficially in the residuary estate undisposed of whether real or personal in its nature, of such person shall be regulated by the provisions hereof.

Definition of
"Kin."

3. No person shall be deemed of kin to a deceased person intestate for the purpose of beneficial succession to his estate who is not either lawful issue of the deceased, or his father or mother or a grandfather or grandmother or great grandfather or great grandmother of the deceased or the lawful issue of any such person.

Next of Kin.

4. By the "next of kin" of a deceased, are meant the person or persons nearest in degree of relationship, among those of kin within the meaning of the third section hereof, each step to or from the common ancestor reckoning as a degree of kinship; the half-blood reckoning together immediately after the whole blood of the same degree.

Residuary
Estate undis-
posed of to
belong to next
of kin.

5. Subject as in this Ordinance is expressly provided, when any person shall die intestate or partially intestate domiciled in this colony or entitled to real estate in this colony wherever domiciled, the residuary estate undisposed of, of such person shall be distributed amongst the same persons, being of kin within the meaning hereof, in the same manner and in the same proportions as the personal estate of such person dying domiciled in England and intestate would be distributed by the law of England.

Rights of
husband or
wife of
deceased.

6. In lieu of dower or thirds and of the right to the courtesy and to the marital succession to personalty, the widow or surviving husband of an intestate person dying after the commencement of this Ordinance shall be beneficially entitled as follows:—

1. If there are no kin within the meaning hereof, or if the next of kin does not consist of lawful issue of the deceased to the whole estate of the deceased.
2. If there is lawful issue of the deceased, to one-third thereof.

Saving right to
beneficial
estate by the
courtesy in
certain cases.

7. Provided that in case the deceased intestate was a married woman, married to a surviving husband before the commencement of this Ordinance, and has died seised in

fee simple of any freehold land, such surviving husband shall at his option be held entitled in lieu of the beneficial interest in his wife's estate conferred by the last section hereof, to a beneficial estate by the courtesy in such land according to the provisions of Section 4 of the Ordinance 14 of 1844, but not to any legal estate in such land. And in such case the surviving husband shall (subject to the right of the real representative to dispose of such land in the course of administration) be deemed beneficially entitled to a life estate in such land, or in the produce or value thereof if sold, or in so much thereof as has not been sold and duly expended in course of administration. But subject to his beneficial life interest, such land or the produce or value thereof as the case may be, shall be deemed to belong to the next kin of the deceased intestate at her death, as if such husband had pre-deceased her.

8. In any such case as in the last section provided for, At election surviving husband. it shall be competent for such surviving husband at any time within twelve months of the death of his wife, at his election by deed under his hand duly registered to waive the right thereby conferred and avail himself instead thereof of the right in and to the estate of the intestate conferred by the sixth section hereof. In default of such election, the surviving husband shall as regards any land of his deceased wife be deemed to have elected at the expiration of one year from the death of the intestate to accept his beneficial life estate by the curtesy in such land, and to have waived the benefit of Section 6 hereof in respect of her general estate and the produce and value thereof.

9. In the event of there being no person of kin to a Right of Administrator-General in default of kin. deceased person intestate within the meaning hereof, then the Administrator-General shall be beneficially entitled on behalf of Her Majesty to such part of the estate of the intestate as a surviving wife or husband if any, is not entitled to.

10. Whenever the Administrator-General on behalf of Rights of Crown may be granted after administration to persons having claim. Her Majesty has obtained administration to the estate of a deceased person intestate, and no person appears to be legally entitled to the beneficial interest in the residue of such estate under the provisions of Sections 5 and 6 hereof,

it shall be lawful for the Governor in Council by warrant to order the payment or transfer of the whole or any part of such residuary estate if got in and converted into money, or the transfer delivery or grant of any part thereof unconverted, whether consisting of real or personal estate, to any person who shall have established to the satisfaction of the Governor in Council a legal equitable or moral claim thereto. And in the case of any part of such residuary estate consisting of land, then the Administrator-General shall by virtue of such warrant execute and deliver to such person a deed of transfer under the provisions of Section 4 of the Property Devolution Ordinance, 1900, vesting such land in such person in accordance with the terms of such warrant. And in the case of such residue consisting of money which has been paid to the Receiver-General on behalf of the Colony then the Receiver-General shall on such warrant pay the amount therein specified to the person in such warrant mentioned, and any such warrant as aforesaid may be granted on such terms and conditions as to the costs and fees attendant on transfer and as to the payment of legacy succession or other duties and otherwise, as to the Governor in Council may seem fit.

Real estate
may be granted
after expira-
tion of 12
months
without ad-
ministration.

11. Where a person has died intestate, and any real estate of such person shall have vested in the Administrator-General under the provisions of Sub-section 5 of section 2 of the Property Devolution Ordinance, 1900, and no administration to the estate of such person has been granted, it shall be lawful for the Governor in Council at any time after the expiration of twelve months from such death, on its being made to appear by affidavit that the deceased person has died intestate, and that there is no evidence that there is any person in the Colony entitled to his estate, under the provisions of Sections 5 and 6 hereof, by warrant to grant to any person who shall have established a legal equitable or moral claim thereto within the meaning of the last preceding section, a transfer of such part of the residuary estate of the intestate, consisting of land, as shall then be so vested in the Administrator-General, to such persons and for such estates as shall in such warrant be directed; such warrant may be granted subject to such terms and conditions as in the last section hereof

specified, and shall have the effect of conditional assurance of such land to take effect as a grant of the rights of the Administrator-General therein, under the provisions of the 9th section hereof.

12. A transfer or warrant granting land under either of the last two preceding sections shall be entered on the Real Property register on the delivery thereof to the Registrar-General within twelve days from the same being signed; and at the expiration of two years from the registration shall be deemed to have passed the legal estate in such land according to the terms of such warrant; and administration obtained to the estate of such intestate after the expiration of such two years shall not be deemed to vest in the real representative to whom such administration shall have been granted or to her next of kin the legal or beneficial estate (respectively) in such land.

Registration of
warrant and
effect of same.

Provided that on the entry of such transfer or warrant the Registrar-General shall enter a caveat on behalf of the Administrator-General and all persons entitled to take out letters of administration and shall remove the same at the expiration of two years from such registration.

13. A transfer under Section 10 hereof shall as to any land therein comprised, be deemed in like manner to take effect by way of entitling the person therein named to possession, and shall bind the legal and beneficial estate in such land according to the tenour thereof after the expiration of two years from its registration, unless in the meantime application has been made on behalf of persons claiming to be entitled as against the Crown to set aside the administration granted to the Administrator-General, or thereafter in the event of all such applications being unsuccessful.

Effect of
transfer.

14. In any case in which it appears that the property real and personal of or to which a deceased intestate has died possessed or entitled does not exceed in value the sum of £50, and no application has been made by any person entitled under Section 108 of the Wills and Probate Ordinance, 1900, it shall be lawful for the Administrator-General to make application as in such section provided

Intestate
estates under
£50 in value.

for the benefit of any person who may appear to him to have established a legal equitable or moral claim; and in default of any such person, for the use of the colony: and in such case to pay or divide or grant the estate of the deceased when administration shall have been granted among the persons who shall have established such claim with the assent of the Governor; in such proportions and subject to such conditions and the payments of such costs as the Governor may approve.

Savings Bank
Deposits.

15. Nothing herein contained shall be deemed in any way to affect the powers of the Governor and the Chief Manager of the Savings Bank under Sections 22 and 23 of Ordinance 21—1899 or under Section 6 of the Ordinance 21—1896 to pay, apply and distribute moneys standing to the credit of a depositor in the Savings Bank to the several classes of persons in such sections respectively specified.

Repeal and
Saving Clause

16. The following enactments are hereby repealed :

Ordinance 23—1850—The whole.

Ordinance 7—1894 do.

Ordinance 8—1894—Section 7.

Save as in this Ordinance is expressly provided the repeals herein enacted shall not affect the validity or invalidity of anything done or suffered, or any right accrued or liability incurred before or any proceedings pending or uncompleted at the commencement of this Ordinance.

Passed in Council this Seventeenth day of December, in the year of Our Lord one thousand nine hundred.

HARRY L. KNAGGS,

Acting Clerk of the Council.