



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

SURVIVORSHIP ACT

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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SURVIVORSHIP ACT

CHAPTER S-12

1. Definitions

(1) In this Act,

- (a) “**property**” includes, without limitation,
 - (i) real and personal property, as well as rights or interests in them,
 - (ii) anything regarded in law or equity as property or an interest in property,
 - (iii) any right or interest that can be transferred for value from one person to another,
 - (iv) any right, including a contingent or future right, to be paid money or receive any other kind of property, and
 - (v) any cause of action, to the extent that it relates to property or could result in a judgment requiring a person to pay money;
- (b) “**will**” means a will as defined in clause 1(t) of the *Probate Act* R.S.P.E.I. 1988, Cap. P-21.

Application of *Probate Act*

(2) The provisions of this Act shall be read and construed subject to section 85 of the *Probate Act*.

Application of sections 164, 202 of *Insurance Act*

(3) The provisions of this Act shall be read and construed subject to sections 164 and 202 of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4. 2025,c.16,s.1.

2. Application of Act

(1) This Act applies only in respect of deaths occurring on or after the date that this Act comes into force.

Non-application to earlier deaths

(2) In respect of the deaths of persons who died before the coming into force of this Act, survivorship shall be determined as though this Act had not been enacted. 2025,c.16,s.2.

3. Deaths at the same time

(1) Except as otherwise provided in this Act, where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, the property of each person shall be disposed of as if the person had survived the other or others.

Application of rule

- (2) Subsection (1) applies for all purposes that affect the legal or beneficial title to, the ownership of or the succession to property. *2025,c.16,s.3.*

4. Deaths within five-day period

- (1) Where two or more persons die within five days of each other, they shall be deemed, for the purposes of this Act, to have died at the same time.

Exception

- (2) Despite subsection (1), where two persons die within a period of five days,
- (a) the second person to die may, within the five-day period, do any act that creates in that person or in a third person an interest in property that would have come to the second person on the death of the first person to die but for the operation of subsection (1); and
 - (b) the act described in clause (a) by the second person to die is effective to create the interest that it purported to create.

Non-application

- (3) This section does not apply
- (a) for the purposes of section 8;
 - (b) in respect of a benefit under a contract of insurance that is subject to the *Insurance Act*; or
 - (c) in respect of a beneficiary declaration under the *Insurance Act*. *2025,c.16,s.4.*

5. Interpretation of prior will, etc.

- (1) A will, written agreement or other document made before the coming into force of this Act shall be interpreted as though this Act had not been enacted.

References to survivorship for unspecified period

- (2) A reference in a will, written agreement or other document made after the coming into force of this Act to one person surviving another person for an unspecified period of time is deemed, unless a contrary intention is expressed, and subject to subsection 4(2), to be a reference to the one person surviving the other for a period of time that is greater than the period set out in subsection 4(1). *2025,c.16,s.5.*

6. References to survivorship for disposition of property

Unless a contrary intention appears in the will, where a will contains a provision for the disposition of property in the event that a person designated in the will dies

- (a) before another person;
 - (b) at the same time as another person; or
 - (c) in circumstances that make it uncertain which person survived the other,
- and the designated person dies at the same time as the other person or in circumstances that make it uncertain which person survived the other, the case for which the will provides is deemed to have occurred for the purposes of that disposition. *2025,c.16,s.6.*

7. Substituting executor

Where a will contains a provision for a substitute executor in the event that an executor designated in the will dies

- (a) before the testator;
 - (b) at the same time as the testator; or
 - (c) in circumstances that make it uncertain which of them survived the other,
- and the designated executor dies at the same time as the testator or in circumstances that make it uncertain which of them survived the other, the case for which the will provides is deemed to have occurred for the purposes of probating the will. 2025,c.16,s.7.

8. Jointly held property

- (1) Where two or more persons hold title to property jointly and both or all of them die at the same time or in circumstances that make it uncertain which of them survived the other or others, those persons are deemed, for the purposes of this Act, to have held the property as tenants in common in equal shares, unless a contrary intention appears in a written instrument to which the persons are parties.

Exception

- (2) Despite subsection (1), where two or more persons hold title to property jointly and both or all of them die at the same time or in circumstances that make it uncertain which of them survived the other or others, the younger person or persons are deemed to have survived the older person or persons if
 - (a) the joint title to the property was acquired by those persons prior to the date that this section comes into force; or
 - (b) those persons have a common heir or heirs who are entitled to succeed to that property on the same basis under a will or intestacy of either of those persons. 2025,c.16,s.8.

9. Repeal

The *Commorientes Act* R.S.P.E.I. 1988, Cap. C-12, is repealed. 2025,c.16,s.9.