

**Reprint  
as at 1 November 2007**



**Simultaneous Deaths Act 1958**

Public Act    1958 No 37  
Date of assent    25 September 1958  
Commencement    25 September 1958

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**An Act to make better provision in respect of the devolution of  
property in cases of simultaneous deaths**

**1 Short Title**

This Act may be cited as the Simultaneous Deaths Act 1958.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Justice.**

## 2 Interpretation

In this Act, unless the context otherwise requires, the term **property** includes any real and personal property, and any estate or interest in any property, and any debt, and any thing in action, and any other right or interest.

## 3 Devolution of property in cases of simultaneous deaths

(1) In any case where, after the commencement of this Act, 2 or more persons have died at the same time or in circumstances which give rise to reasonable doubt as to which of them survived the other or others—

- (a) the property of each person so dying shall devolve, and if he left a will it shall take effect unless a contrary intention is shown thereby, as if he had survived the other person or persons so dying and had died immediately afterwards:
- (b) every *donatio mortis causa* made by any person so dying to any other person so dying shall be void and of no effect:
- (c) if the life of any of the persons so dying is insured under any policy of life or accident insurance, and any other person or persons so dying would be entitled (otherwise than under any will or on the intestacy of any person) to the proceeds of the policy or any part thereof if he or they survived the person insured, the said proceeds shall, unless a contrary intention is shown by the instrument governing the distribution of the proceeds, be distributed as if the person insured had survived every other person so dying and died immediately afterwards:
- (d) any property owned jointly and exclusively by 2 or more of the persons so dying shall devolve as if it were owned by them when they died as tenants in common in equal shares:
- (e) if any of 2 or more possible beneficiaries under a will or trust or other disposition have died as described, and would be given property under the will or trust or other disposition if any of them could be shown to have survived the other or others, the following provisions apply:

- (i) the will or trust or disposition takes effect as if the property were given to those possible beneficiaries as tenants in common in equal shares; and
  - (ii) the property passes accordingly; and
  - (iii) subparagraphs (i) and (ii) do not apply if the will or trust or disposition shows a contrary intention; and
  - (iv) subparagraphs (i) and (ii) do not apply if paragraph (c) or (f) applies:
- (f) if any of 2 or more persons who have died as described could have exercised a power of appointment over property if any of them could be shown to have survived the other or others, the following provisions apply:
- (i) the power may be exercised as if an equal share of the property had been set apart for appointment by each of the persons; and
  - (ii) the power may be exercised as if each of the persons had the power of appointment over the share of the property set apart for him or her; and
  - (iii) the share passes in default of appointment by him or her in the manner in which the property would have passed in default of appointment by him or her if he or she had been the survivor of the persons; and
  - (iv) subparagraphs (i) to (iii) do not apply if the instrument creating the power shows a contrary intention; and
  - (v) subparagraphs (i) to (iii) do not apply if paragraph (c) applies:
- (g) if property is given or appointed by a will or other testamentary instrument to the survivor of 2 or more of the testator's children or issue, and all or the last survivors of the children or issue are persons who have died as described, section 23 of the Wills Act 2007 or section 16 of the Wills Amendment Act 1955 takes effect as if the gift or appointment were in equal shares to the children or issue who—
- (i) have died as described; and

- (ii) have a child or children living at the testator's death:
  - (h) if the persons who have died as described include a testator and 1 or more of the testator's issue, the following provisions apply for the purposes of section 33 of the Wills Act 1837 of the United Kingdom Parliament:
    - (i) the testator is treated as having survived, but died immediately after, all the testator's issue who have died as described; and
    - (ii) a gift by the testator to any of the testator's issue who has died as described or has already died in the testator's life time (**donee**) takes effect under section 33 if any of the donee's issue is living at the testator's death and is not a person who has died as described; and
    - (iii) subparagraphs (i) and (ii) do not apply if the testator's will shows a contrary intention:
  - (i) for all other purposes affecting the title to property or the appointment of trustees, the deaths of the persons so dying shall be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.
- (2) Nothing in this section shall affect section 9 of the Joint Family Homes Act 1964.

Section 3(1)(e): replaced, on 1 November 2007, by section 41 of the Wills Act 2007 (2007 No 36).

Section 3(1)(f): replaced, on 1 November 2007, by section 41 of the Wills Act 2007 (2007 No 36).

Section 3(1)(g): replaced, on 1 November 2007, by section 41 of the Wills Act 2007 (2007 No 36).

Section 3(1)(h): replaced, on 1 November 2007, by section 41 of the Wills Act 2007 (2007 No 36).

Section 3(2): amended, on 1 April 1965, pursuant to section 27(1) of the Joint Family Homes Act 1964 (1964 No 45).

#### **4 Application of Act**

- (1) This Act shall apply in respect of—
  - (a) all property of any person that devolves according to the law of New Zealand:

- (b) all appointments of trustees where the appointments have to be made according to the law of New Zealand.
- (2) This Act shall so apply whether the deaths occurred in New Zealand or elsewhere.

**5 Repeal**

*Amendments incorporated in the Act(s).*

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**Notes****1 *General***

This is a reprint of the Simultaneous Deaths Act 1958. The reprint incorporates all the amendments to the Act as at 1 November 2007, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Wills Act 2007 (2007 No 36): section 41

Joint Family Homes Act 1964 (1964 No 45): section 27(1)

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