

[Legal Notice No. 26]
THE WILLS, PROBATE AND ADMINISTRATION ACT 1987
(No. 2 of 1987)

THE GRANTS OF PROBATE AND ADMINISTRATION
(ORDER OF PRIORITY) REGULATIONS 1996

IN exercise of the powers conferred under section 41 of the Wills, Probate and Administration Act, 1987, I, OLIVER ZAPO, Minister of Justice and Legal Affairs, do hereby make the following regulations -

1. These Regulations may be cited as the Grants of Probate and Administration (Order of Priority) Regulations 1996.
2. The person or persons entitled to a grant of probate or administration with the will annexed are in the following order of priority -
 - (a) the executor;
 - (b) any residuary legatee or devisee holding in trust for any other person;
 - (c) any residuary legatee or devisee for life;
 - (d) the ultimate residuary legatee or devisee or, where the residue is not wholly disposed of by the will, any person entitled to a share in the residue not so disposed of or (subject to section 31 of the Act) the personal representative of any such person; provided that where the court is satisfied that the testator has disposed of substantially the whole estate, a grant may be made to any legatee or devisee entitled to or to a share in the estate so disposed of without regard to the persons entitled to share in any residue not disposed of by the will;
 - (e) any specific legatee or devisee or any creditor, or (subject to section 31 of the Act) the person representative of any such person or, where the estate is not wholly disposed of by the will any person who, notwithstanding that the amount of the estate is such that he has no immediate beneficial interest in the estate would have such a beneficial interest in the event of an addition to the estate;
 - (f) any legatee or devisee, whether residuary or specific, entitled on the happening of any contingency or any person having no interest under the will who would have been entitled to a grant if the deceased had died wholly intestate.

3. (1) Where the deceased died wholly intestate, the persons having a beneficial interest in the estate shall be entitled to a grant of administration in the following order of priority -

- (a) the surviving spouse;
- (b) the children of the deceased or the issues of any such child who died during the lifetime of the deceased;
- (c) the father or mother of the deceased;
- (d) brothers or sisters of the whole blood or the issue of any such brother or sister who died during the life-time of the deceased.

(2) If no person in any of the classes mentioned in paragraph (1) has survived the deceased then the following, if they have a beneficial interest in the estate, shall be entitled to a grant in the following order of priority -

- (a) brothers and sisters of the half blood or the issue of any such deceased brother or sister who died during the life-time of the deceased;
- (b) grandparents;
- (c) uncles and aunts of the whole blood or the issue of any such deceased uncle or aunt who died during the life-time of the deceased.

(3) In default of any person having a beneficial interest in the estate, the Public Trustee shall be entitled to a grant if he claims *bona vacantia* on behalf of the crown.

(4) If all persons entitled to a grant under the foregoing provisions of this rule have been cleared off, a grant may be made to a creditor of the deceased or to any person who notwithstanding that he has no immediate beneficial interest, may have a beneficial interest in the event of an addition to the estate.

(5) Subject to section 31 of the Act the personal representative of a person in any of the classes mentioned in paragraphs (1) and (2) of this regulation or the personal representative of a creditor shall be preferred to the personal representative of a spouse who died without taking a beneficial interest in the whole of the estate of the deceased.

Dated at Honiara this first day of February, 1996.

OLIVER ZAPO
Minister of Justice & Legal Affairs