

LCQ8: Statutory distribution of the estate of an intestate

Following is a question by the Hon Lau Kong-wah and a written reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (May 5):

Question:

A member of the public has recently relayed to me that as his senile uncle had not made any will when he was alive; nor had he any statutory successors such as children, etc. his relatives were unable to use his estate to settle his funeral matters upon his death. In this connection, will the Government inform this Council:

- (a) of the total number of intestates with estates left in each of the past three years; the annual amount of such estates taken over by the Government each year, and how such estates were handled and used;
- (b) given that relatives such as a sister's child are not included in the classes of statutory successors for estates of the intestates stipulated in section 4 of the Intestates' Estates Ordinance (Cap. 73), of the reasons and the law's spirit for not including such classes;
- (c) whether it will amend the legislation to increase the number of classes of successors for estates of the intestates; and
- (d) whether it will step up publicity and educate members of the public on making a will in advance for the distribution of their property?

Reply:

President,

In respect of the question raised by Hon Lau Kong-wah on "Statutory distribution of the estate of an intestate", my response is as follows:

- (a) The Judiciary does not have the complete information on the total number of intestates with estates left, or the annual amount of such estates taken over by the

Government.

Nonetheless, the number of applications for grant where the deceased died intestate in the past three years is as follows:

2007	2008	2009
9,552	9,475	10,430

Under sections 15 and 16 of the Probate and Administration Ordinance (Cap.10), the Official Administrator (OA) may get in and administer an estate. Under sections 15(2) and 23A to C of Cap. 10, the OA may transfer the unclaimed balance of the estate to the general revenue. The OA has in the past three financial years transferred the following sums of unclaimed balance of the estate to the general revenue:

2007-08	2008-09	2009-10
\$7,007,488	\$27,010,993	\$7,983,283

(b) and (c) The entitlement of the nephew/niece of an intestate is provided for under the existing Intestates' Estates Ordinance (Cap.73). Under section 4 of Cap.73, subject to the order of the distribution of estates provided, a nephew/niece who is an issue of the brother or sister of an intestate would be entitled to a share of the residuary estate of the intestate under the statutory trusts if the brother or sister predeceases the intestate. Further, under section 60B of the Probate and Administration Ordinance (Cap.10), a certificate may be issued to, inter alia, a family member or relative, to release money from the bank account of the deceased person maintained in his/her sole name before his/her death to meet his/her funeral expenses. In the light of this, it is not necessary to amend the existing law.

(d) The Government has compiled various publications on wills, probate and inheritance matters which are available for public access at the District Offices, the Estate Beneficiaries Support Unit of the Home Affairs Department and the Probate Registry. We will continue to enhance and update these materials to meet the needs of the community.

Ends/Wednesday, May 5, 2010

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