



What is life interest by a spouse?

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Life interest refers to the legal interest of a surviving spouse in the net estate of the deceased spouse in the course of the surviving spouse's lifetime. Below is what the law provides on life interest:

1 Life interest lapses upon remarriage or death of the surviving spouse. This means that even when the deceased has children, the estate is not to be divided amongst the children while the surviving spouse is still alive and can only happen upon her remarriage or death.

2 The right of life interest does not give a spouse absolute right over the property. A surviving spouse is only entitled to use the property and since the property does not belong to them, they can only enjoy the same during their lifetime. A spouse with a life interest cannot dispose of the deceased's property, except in compliance with the law as explained in 7 below

3 Where a person died intestate leaving one surviving spouse and children, the surviving spouse is entitled to a life interest in the remainder of the net intestate estate in addition to the personal and household effects of the deceased. Usually, the ultimate beneficiary of the estate is the children of the deceased. However, immediate distribution to the children may dispossess the surviving spouse. Life interest is meant to safeguard the surviving spouse's position by allowing her to utilize the property during her lifetime.

4 During the continuation of the life interest, the surviving spouse has a discretionary power of appointment. This is where the surviving spouse passes all or any part of the net estate by way of gift among any surviving children. However, the appointment must take effect immediately and not in the future. Where any child is aggrieved by an appointment or lack of it, that child may apply to the court for the appointment of his share, with or without variation of any appointment already made.



5 When the surviving spouse dies or remarries, the whole residue of the net intestate estate devolves to the surviving child or children. This is subject to any prior appointments and to previous awards by the deceased before his death.

6 Where the intestate has left one surviving spouse but no children, the surviving spouse is entitled to a life interest in the whole of the remainder as well as the personal and household effects of the deceased, the first ten thousand shillings out of the residue of the net intestate estate, or twenty per cent thereof, whichever is higher.

7 A surviving spouse can sell any of the property if it is necessary for his own maintenance during the period of the life interest. This however must be done with the consent of all co-trustees and all adult children, or with the consent of the court. The sale of immovable property is however always be subject to the consent of the court.