

Namibia

Intestate Succession Ordinance, 1946

Ordinance 12 of 1946

Legislation as at 21 December 1982

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[\[This is the version of this document from 21 December 1982
and includes any amendments published up to 19 April 2024.\]](#)

[\[Amended by Intestate Succession Amendment Ordinance, 1963 \(Ordinance 6 of 1963\) on 30 March 1963\]](#)
[\[Amended by Intestate Succession Amendment Act, 1982 \(Act 15 of 1982\) on 21 December 1982\]](#)

ORDINANCE

To provide for the amendment of the law relating to intestate succession.

(Afrikaans text signed by the Administrator.)

[\[The provisions of this Proclamation have no headings.\]](#)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:-

1.

- (1) The surviving spouse of every person who after the commencement of this Ordinance dies either wholly or partly intestate, is hereby declared to be an intestate heir of the deceased spouse according to the following rules:-
 - (a) if the spouses were married in community of property and if the deceased spouse leaves any descendant who is entitled to succeed ab intestato, the surviving spouse shall succeed to the extent of a child's share or to so much as together with the surviving spouse's share in the joint estate, does not exceed fifty thousand rand in value (whichever is the greater);
[\[paragraph \(a\) amended by Ord. 6 of 1963 and substituted by Act 15 of 1982\]](#)
 - (b) if the spouses were married out of community of property and if the deceased spouse leaves any descendant who is entitled to succeed ab intestato, the surviving spouse shall succeed to the extent of a child's share or to so much as does not exceed fifty thousand rand in value (whichever is the greater);

[\[Paragraph \(b\) is amended by Ord. 6 of 1963 and substituted by Act 15 of 1982. The phrase "does not exceed" in the substituted provision should be "does not exceed".\]](#)

- (c) if the spouses were married either in or out of community of property, and the deceased spouse leaves no descendant who is entitled to succeed ab intestato, but leaves a parent or a brother or a sister (whether of the full or half blood) who is entitled so to succeed, the surviving spouse shall succeed to the extent of a half share or to so much as does not exceed fifty thousand rand in value (whichever is the greater);

[paragraph (c) amended by Ord. 6 of 1963 and substituted by Act 15 of 1982]
 - (d) in any case not covered by paragraph (a), (b), or (c) the surviving spouse shall be the sole intestate heir.
- (2) For the purposes of this Ordinance any relationship by adoption under the provisions of the Adoption of Children Ordinance, 1927 (Ordinance No. 10 of 1927), shall be equivalent to blood relationship.

[The Adoption of Children Ordinance 10 of 1927 was repealed by the Children's Ordinance 31 of 1961, which was repealed in turn by the Children's Amendment Act 74 of 1973 (RSA GG 3966) – which was brought into force on 1 January 1977 by RSA Proc. 264/1976 (RSA GG 5360) and which made the Children's Act 33 of 1960 (SA GG 6417) applicable to South West Africa.]

2.

This Ordinance may be cited as the Intestate Succession Ordinance, 1946.