

The Intestate Succession Act, 2019

being

Chapter I-13.2 of the *Statutes of Saskatchewan, 2019*
(effective October 1, 2019).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER I-13.2

An Act respecting the Distribution of Estates of Intestates,
repealing *The Intestate Succession Act, 1996* and
making consequential amendments to other Acts

Short title

1 This Act may be cited as *The Intestate Succession Act, 2019*.

Definitions

2 In this Act:

“**descendant**” means all lineal descendants of an individual, through all generations; (« *descendant* »)

“**estate**” includes both real and personal property; (« *succession* »)

“**net value**”, with respect to an estate, means the value of the estate wherever situated, both within and outside Saskatchewan, after payment of any charges on the estate and the debts, funeral expenses and expenses of administration; (« *valeur nette* »)

“**prescribed**” means prescribed in the regulations; (« *réglementaire* »)

“**spouse**” means:

- (a) the legally married spouse of the intestate; or
- (b) an individual who:
 - (i) cohabited with the intestate as spouses continuously for at least 2 years; and
 - (ii) at the time of the intestate’s death was continuing to cohabit with the intestate or had ceased to cohabit with the intestate within the 24 months before the intestate’s death. (« *conjoint* »)

Application of Act

3 This Act is subject to any court order made pursuant to *The Dependents’ Relief Act, 1996* that affects the estate of an intestate.

2019, cI-13.2, s.3.

Spouse but no descendants

4 Subject to section 15, if an intestate died leaving a spouse but no descendants, the entirety of the estate shall be distributed to the spouse.

2019, cI-13.2, s.4.

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Spouse and common descendants

5 Subject to section 15, if an intestate died leaving a spouse and one or more descendants, the entirety of the estate shall be distributed to the spouse if all of the intestate's descendants are also descendants of the spouse.

2019, cI-13.2, s.5.

Spouse and other descendants – spouse's preferential share

6(1) Subject to section 15, if an intestate died leaving a spouse and one or more descendants, and if any of the intestate's descendants are not descendants of the spouse:

- (a) if the net value of the estate does not exceed the prescribed amount, the entirety of the estate shall be distributed to the spouse; or
- (b) if the net value of the estate exceeds the prescribed amount:
 - (i) the spouse is entitled to the prescribed amount and has a charge on the estate for that amount, with legal interest from the date of the intestate's death; and
 - (ii) after payment to the spouse of the prescribed amount and interest pursuant to subclause (i):
 - (A) if the intestate died leaving a spouse and one child, 1/2 of the residue of the estate shall be distributed to the spouse; or
 - (B) if the intestate died leaving a spouse and children, 1/3 of the residue of the estate shall be distributed to the spouse.

(2) In the circumstances mentioned in clause (1)(b), if a child of the intestate died leaving one or more descendants who survived the intestate, the spouse is entitled to the same share of the estate as if the child had been living at the date of the intestate's death.

2019, cI-13.2, s.6.

Intestate's descendants

7 If an intestate died leaving descendants, the estate shall be distributed, subject to the rights of the spouse, if any, *per stirpes* among the descendants.

2019, cI-13.2, s.7.

Parents

8(1) If an intestate died leaving no spouse or descendant, the estate shall be distributed in equal shares to:

- (a) the intestate's parents; or
- (b) the surviving parents if any parent has predeceased the intestate.

(2) If there is no surviving parent of the intestate, the estate shall be distributed *per stirpes* among the descendants of the parents.

2019, cI-13.2, s.8.

Grandparents

9(1) If there is no surviving parent of the intestate or descendant of a parent, but the intestate is survived by one or more grandparents or descendants of grandparents, the estate shall be distributed in equal shares among the grandparents.

(2) If a grandparent has predeceased the intestate, the share of the estate to which that grandparent would otherwise have been entitled if he or she had not predeceased the intestate shall be distributed *per stirpes* among the descendants of that grandparent.

2019, cI-13.2, s.9.

Great-grandparents

10(1) If there is no surviving grandparent of the intestate or descendant of a grandparent, but the intestate is survived by one or more great-grandparents or descendants of great-grandparents, the estate shall be distributed in equal shares among the great-grandparents.

(2) If a great-grandparent has predeceased the intestate, the share of the estate to which that great-grandparent would otherwise have been entitled if he or she had not predeceased the intestate shall be distributed *per stirpes* among the descendants of that great-grandparent.

2019, cI-13.2, s.10.

Degrees of relationship

11 For the purposes of this Act:

(a) degrees of relationship between an individual and the intestate shall be determined by counting upward from the intestate to the nearest common ancestor of the intestate and the individual, and then downward to the individual;

(b) individuals of the half-kinship inherit equally with those of the whole kinship in the same degree of relationship to the intestate; and

(c) individuals of the 5th or greater degree of relationship to the intestate are deemed to have predeceased the intestate, and any part of the estate to which those individuals would otherwise be entitled pursuant to this Act shall be distributed to the individuals of a closer degree of relationship to the intestate, if any, who are entitled to the estate.

2019, cI-13.2, s.11.

Posthumous births

12 Descendants and relatives of the intestate conceived before the intestate's death but born after the intestate's death shall inherit as if they had been born in the intestate's lifetime and had survived the intestate.

2019, cI-13.2, s.12.

Partial intestacy

13 Any portion of an estate that is not disposed of by will shall be distributed as though the testator died intestate and left no other estate.

2019, cI-13.2, s.13.

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No dower or courtesy

14(1) No wife is entitled to dower in the land of her deceased husband dying intestate.

(2) No husband is entitled to an estate by the courtesy in the land of his deceased wife dying intestate.

2019, cI-13.2, s.14.

When separated spouse takes no part in the estate

15(1) Subject to subsection (2), the spouse of an intestate takes no part in the estate if the intestate and the spouse:

(a) had been living separate and apart for more than 2 years at the time of the intestate's death;

(b) were opposing parties to a proceeding under the *Divorce Act* (Canada), *The Family Property Act* or *The Family Maintenance Act, 1997* at the time of the intestate's death; or

(c) are parties to an agreement or an order with respect to their property or other spousal or family issues, which agreement or order appears to separate and finalize their affairs in recognition of the termination of their spousal relationship.

(2) Subsection (1) does not apply to a spouse who reconciled with the intestate if the reconciliation was subsisting at the time of the intestate's death.

(3) If the spouse of an intestate has left the intestate and is cohabiting with another individual in a spousal relationship at the time of the intestate's death, the spouse takes no part in the estate.

2019, cI-13.2, s.15.

Conflict of laws

16(1) In this section, "**immovable property**" includes real property and a leasehold or other interest in land.

(2) The distribution of an intestate's immovable property that is located in Saskatchewan shall be dealt with in accordance with the laws of Saskatchewan notwithstanding that the intestate resided outside of Saskatchewan at the time of death.

2019, cI-13.2, s.16.

Regulations

17 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(b) prescribing the amount for the purposes of section 6, including prescribing different amounts for different periods;

(c) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;

(d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2019, cI-13.2, s.17.

REPEAL AND TRANSITIONAL

SS 1996, c I-13.1 repealed

18 *The Intestate Succession Act, 1996* is repealed.

2019, cI-13.2, s.18.

Transitional

19(1) In this section, “**former Act**” means *The Intestate Succession Act, 1996*.

(2) This Act applies only in cases of death occurring on or after the date on which this Act comes into force.

(3) Notwithstanding the repeal of the former Act, the former Act continues to apply in cases of death occurring before the date on which this Act comes into force.

2019, cI-13.2, s.19.

CONSEQUENTIAL AMENDMENTS

SS 1996, c C-37.3, section 125 amended

20 Subsection 125(1) of *The Co-operatives Act, 1996* is amended in the portion preceding clause (a) by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

2019, cI-13.2, s.20.

SS 1996, c D-25.01, section 20 amended

21 Clause 20(2)(c) of *The Dependants’ Relief Act, 1996* is amended by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

2019, cI-13.2, s.21.

SS 1997, c F-6.3 amended

22(1) *The Family Property Act* is amended in the manner set forth in this section.

(2) Subsection 30(3) is amended by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

(3) Clause 35(b) is amended by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

2019, cI-13.2, s.22.

SS 2015, c H-0.002 amended

23(1) *The Health Care Directives and Substitute Health Care Decision Makers Act, 2015* is amended in the manner set forth in this section.

(2) Clause 25(c) is amended by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

(3) Clause 26(3)(c) is amended by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

2019, cI-13.2, s.23.

SS 1996, c W-14.1, section 22 amended

24 Subsection 22(2) of *The Wills Act, 1996* is amended by striking out “*The Intestate Succession Act, 1996*” and substituting “*The Intestate Succession Act, 2019*”.

2019, cI-13.2, s.24.

COMING INTO FORCE

Coming into force

25 This Act comes into force on proclamation.

2019, cI-13.2, s.25.