**Book 5
Law of Succession**

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**Division 1
Succession**

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**Section 1922
Universal succession**

(1) Upon the death of a person (devolution of an inheritance), that person’s property (inheritance) passes as a whole to one or more than one other persons (heirs).

(2) The share of a co-heir (share of the inheritance) is governed by the provisions relating to inheritance.

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**Section 1923
Capacity to inherit**

(1) Only a person who is alive at the time of the devolution of an inheritance may be an heir.

(2) A person who is not yet alive at the time of the devolution of an inheritance, but has already been conceived, is deemed to have been born before the devolution of an inheritance.

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**Section 1924
Heirs on intestacy of the first degree**

(1) Heirs on intestacy of the first degree are the descendants of the deceased.

(2) A descendant living at the time of the devolution of an inheritance excludes the descendants related to the deceased through himself from the succession.

(3) If a descendant is no longer living at the time of the devolution of an inheritance, the descendants related to the deceased through him take his place (succession per stirpes).

(4) Children inherit in equal shares.

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**Section 1925
Heirs on intestacy of the second degree**

(1) Heirs on intestacy of the second degree are the parents of the deceased and their descendants.

(2) If the parents are living at the time of the devolution of an inheritance, they inherit alone and in equal shares.

(3) If at the time of the devolution of an inheritance the father or the mother is no longer living, the place of the deceased parent is taken by his descendants under the provisions governing succession by heirs of the first degree. If there are no descendants, the surviving parent inherits alone.

(4) In the cases under section 1756, the adopted child and the descendants of the natural parents or of the other parent of the child are not heirs of the second degree in relation to each other.

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**Section 1926
Heirs on intestacy of the third degree**

(1) Heirs on intestacy of the third degree are the grandparents of the deceased and their descendants.

(2) If the grandparents are living at the time of the devolution of an inheritance, they inherit alone and in equal shares.

(3) If the grandfather or the grandmother of one set of grandparents is no longer living at the time of the devolution of an inheritance, the place of the deceased grandparent is taken by his descendants. Where there are no descendants, the share of the deceased grandparent falls to the other grandparent and, if the other grandparent is no longer living, to the other grandparent’s descendants.

(4) If one set of grandparents are no longer living at the time of the devolution of an inheritance and there are no descendants of the deceased grandparents, the other grandparents or their descendants inherit alone.

(5) To the extent that descendants take the place of their parents or more remote forebears, the provisions governing succession by heirs of the first degree apply.

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**Section 1927
More than one share of the inheritance in the case of multiple relationship**

If a person belongs to more than one stirps in the first, the second or the third degree, he receives the shares due to him in each of these stirpes. Each share is deemed to be a separate share of the inheritance.

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**Section 1928
Heirs on intestacy of the fourth degree**

(1) Heirs on intestacy of the fourth degree are the great-grandparents of the deceased and their descendants.

(2) If great-grandparents are living at the time of the devolution of an inheritance, they inherit alone; more than one inherit in equal shares, irrespective of whether they belong to the same line or different lines.

(3) If great-grandparents are no longer living at the time of the devolution of an inheritance, the one of their descendants who is most closely related to the deceased by degree inherits; more than one equally closely related descendant inherit in equal shares.

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**Section 1929
More distant degrees**

(1) Heirs on intestacy of the fifth degree and of the more distant degrees are the more distant forebears of the deceased and their descendants.

(2) The provision of section 1928 (2) and (3) applies with the necessary modifications.

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**Section 1930
Priority of the degrees**

A relative is not entitled to inherit as long as a relative of a preceding degree survives.

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**Section 1931
Right of intestate succession of the spouse**

(1) The surviving spouse of the deceased as an heir on intestacy is entitled to one quarter of the inheritance together with relatives of the first degree, and to one half of the inheritance together with relatives of the second degree or together with grandparents. If there are both grandparents and descendants of grandparents living, the spouse also receives the share of the other half that under section 1926 would pass to the descendants.

(2) If there are relatives neither of the first nor of the second degree nor grandparents living, the surviving spouse receives the whole inheritance.

(3) The provision of section 1371 is unaffected.

(4) If at the time of the devolution of the inheritance there was separation of property and if one or two children of the deceased are entitled as heirs on intestacy together with the surviving spouse, the surviving spouse and each child inherit in equal shares; section 1924 (3) applies in this case too.

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**Section 1932
Preferential benefit of the spouse**

(1) If the surviving spouse is an heir on intestacy together with relatives of the second degree or together with grandparents, the spouse has a right, in addition to the shares of the inheritance, to the objects belonging to the marital household, to the extent that these are not accessories to a plot of land, and to the wedding presents, as a preferential benefit. If the surviving spouse is an heir on intestacy together with relatives of the first degree, the spouse has a right to these objects to the extent that he needs them to maintain a reasonable household.

(2) The preferential benefit is governed by the provisions applying to legacies.

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**Section 1933
Exclusion of the right of succession of the spouse**

The right of succession of the surviving spouse and the right to the preferential benefit are excluded if at the time of the death of the deceased the requirements for the dissolution by divorce of the marriage were satisfied and the deceased had petitioned for or consented to the divorce. The same applies if the deceased was entitled to petition for the annulment of the marriage and had filed the petition. In these cases, the spouse is entitled to maintenance under sections 1569 to 1586b.

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**Section 1934
Right of succession of spouse who is a relative**

If the surviving spouse is one of the relatives entitled to inherit, he inherits at the same time as a relative. The share of the inheritance that passes to him by reason of the relationship is deemed to be a separate share of the inheritance.

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**Section 1935
Consequences of increase of share of the inheritance**

If an heir on intestacy ceases to be an heir before or after the devolution of an inheritance, and if as a result of this the share of the inheritance of another heir on intestacy is increased, the proportion by which the share of the inheritance increases is deemed to be a separate share of the inheritance with regard to the legacies and testamentary burdens to which this heir or the heir who has ceased to be an heir is subject, and with regard to the duty to adjust advancements.

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**Section 1936
Right of intestate succession of the State**

If at the time of the devolution of the inheritance neither a relative, nor a spouse, nor a civil partner of the deceased is living, the Land in which the deceased had his last place of residence or, if none such is ascertainable, his customary place of residence at the time of the devolution of the inheritance is the heir. In other cases, the Federal Government is the heir.