

eSwatini

## Intestate Succession Act, 1953

Act 3 of 1953

Legislation as at 1 December 1998

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## Intestate Succession Act, 1953

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# Intestate Succession Act, 1953

## Act 3 of 1953

Commenced on 23 January 1953

*[This is the version of this document at 1 December 1998.]*

**An Act to amend the law relating to intestate succession.**

### 1. Short title

This Act may be cited as the Intestate Succession Act, 1953.

### 2. Amendment of intestacy law

- (1) Subject to [section 4](#) the surviving spouse of every person who dies after the commencement of this Act, either wholly or partly intestate, is hereby declared to be an intestate heir of the deceased spouse and this section shall apply.
- (2) 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 one thousand two hundred emalangeni in value (whichever is the greater).
- (3) If the spouses were married out of community of property and 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 one thousand two hundred emalangeni in value (whichever is the greater).
- (4) 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 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 one thousand two hundred emalangeni in value (whichever is the greater).
- (5) In any case not covered by subsections (2), (3) or (4), the surviving spouse shall be the sole intestate heir.
- (6) For the purposes of this Act any relationship by adoption under the Adoption of Children Act, [No. 64 of 1952](#), or any other law governing the adoption of children, shall be equivalent to blood relationship.

### 3. Exemption from succession duty

Section 16(a) of the Death Duties Act, [No. 15 of 1942](#), shall apply to any succession accruing to a surviving spouse under this Act.

### 4. Saving

This Act shall not apply to any African if the estate of such African is required to be administered and distributed according to the customs and usages of the tribe or people to which the African belonged by virtue of section 68 of the Administration of Estates Act, [No. 28 of 1902](#).