**Succession**

**LEGAL FRAMEWORK**

* Wills and Succession Law Chapter 195
* Administration of Estates Chapter 189 and the Administration of Estate Rules of 1955
* Probates (Resealing) Law, Chapter 192 and the 1936 Probates (Resealing) Rules
* Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession

**JURISDICTION**

If a person has their residence in Cyprus at the time of death, then, irrespective of the place of death, the provisions of Chapter 195 will apply to the succession to all of their movable property, whether located in Cyprus or abroad, and to the succession to their immovable property situated in Cyprus. However, succession to immovable property situated outside Cyprus will not be governed by Cypriot law but by the law of the place where the immovable property in question is situated. District Courts have jurisdiction to hear cases concerning succession.

**METHODS OF SUCCESSION**

1. **Succession through wills**

The right to dispose of by will is not absolute unless the testator has not left descendants or parents or a spouse. When such descendants or parents or a spouse have been left, only part of the property can be disposed of by will (reserved share). So, if the deceased at the time of death:

(a) leaves a child or descendant of a child, they may not dispose of more than ¼ of the net value of their property by will,

(b) did not leave a child or descendant of a child but a spouse or parent, they cannot dispose of more than ½ of the net value of their estate by will,

(c) did not leave a child or descendant of a child or a spouse or parent, then they can dispose of their entire estate by will.

If the deceased has disposed of more of their estate than the share available, then the share of the estate covered by the will shall be reduced accordingly to limit it to the available share.

**• Validity of a will**

For a will to be valid, it must:

(a) be drawn up by a person who has reached the age of 18 and who is of sound mind and has the ability to draw up a valid will;

(b) be in writing,

(c) enter into force after the testator’s death,

(d) be signed by the testator at the bottom or end of the will.

(e) be signed in the presence of at least two adult witnesses who are of sound mind and are present at the same time and confirm and subscribe the will in the presence of the testator and each other,

(f) if the will consists of more than one sheet of paper, then each sheet must be signed by the testator and the witnesses;

(g) not be drawn up as a result of coercion, fraud or psychological pressure.

**• Invalid legacies**

Factors affecting the validity of legacies:

(a) Where the legacy concerns a natural or legal person who was non-existent at the time of the testator’s death, except where the law provides otherwise.

(b) Where no specific intention is expressed by the testator.

(c) Where a legacy is conditional, and is dependent upon an impossible, illegal or immoral condition, such condition shall be void but the legacy shall be valid.

(d) Where the legacy in question is a legacy to a religious corporation, and the testator has relations within the third degree of kindred and the will was not executed at least 3 months before their death.

The will may be deposited with the registrar of the District Court in person by the testator in a closed envelope. The registrar must seal the envelope with the seal of the Court, take note of the deposit in the relevant register, provide the testator with a record number and send a notification to the chief registrar of the Supreme Court. Only the testator personally can withdraw the will, and only in the presence of the testator can the will be opened and withdrawn or destroyed. If the will has not been deposited with the registrar, any person in possession of such a will shall, upon notification of the testator’s death, immediately hand over its original to the relevant registrar.

**B. Succession in accordance with the provisions of the law**

Where there is no will or where the testator has not disposed of all the property they can dispose of in their will, or where the will is invalid in whole or in part, or where the property cannot be disposed of by will (statutory and undisposed share), the succession to that property shall take place in accordance with the provisions of the law.

**• Spouse**

The surviving spouse is always entitled to a share of the statutory and of the undisposed share of the estate, even if they also receive property on the basis of a will, and cannot be deprived of their share by will or otherwise except where the law so permits.

The percentage of the statutory share and the undisposed share, if any, of the estate to which the surviving spouse is entitled after payment of the deceased’s debts and obligations is as follows:

If the deceased person, apart from their spouse

(a) left behind any child either alive or represented by descendants, their share shall be equal to the proportion of each of the children;

(b) left behind no child or descendant thereof, but any ancestor or descendant thereof within the third degree of kindred to the deceased, such share shall be one-half of the statutory share and of the undisposed share;

(c) left behind no child or descendant thereof, or any ancestor or descendant thereof within the third degree of kindred to the deceased, but any ancestor or descendant thereof of the fourth degree of kindred to the deceased, such share shall be three-fourths of the statutory share and of the undisposed share;

(d) left behind no child or descendant thereof or any ancestor or descendant thereof within the fourth degree of kindred to the deceased, such share shall be the whole statutory share and the whole undisposed share.

**• Relatives**

After calculating and deducting the share to which the surviving spouse is entitled from the statutory and undisposed share of the estate, the property will be shared with the other blood relatives. The degree of kindred between two persons shall be established as follows:

When two persons are in the direct line of descent the one from the other, by calculating the number of generations from either of them to the other, each generation constituting a degree; and where they are not in the direct line of descent the one from the other, by calculating the number of generations from either of them up to their common ancestor and from the common ancestor downwards to the other of them, each generation constituting a degree.

Relatives succeed in accordance with classes and depending on the degree of kindred, and the law provides that members of a class exclude the members of the next class:

**Α. First class**

(1) Legitimate children of the deceased living at their death – in equal shares

(2) descendants, living at the death of the deceased, of any of the deceased’s legitimate children who died in their lifetime – in equal shares per stirpes. This means that the child of any person of the defined class who has died in the lifetime of the deceased and who, if they had survived the deceased, would have become entitled on the death of the deceased to a share in the statutory share, and the undisposed share if any, shall become entitled only to the share which the parent would have taken if they had survived the deceased.

**Β. Second class**

(1) Father and mother of the deceased living at their death (or if not living at their death, the nearest ancestor living at their death) and full and half-brothers and sisters of the deceased living at their death – all in equal shares expect that half-brothers and sisters take half the share of a full brother or sister.

(2) descendants living at the death of the deceased of any of the deceased’s brothers or sisters who died in their lifetime – in equal shares per stirpes.

**C. Third class**

The ancestors of the deceased nearest in degree of kindred living at their death – If there are ancestors of equal degree of kindred on both the father’s side and on the mother’s side, the ancestors on each side will take half of the statutory share, and of the undisposed share if any, and, if there are more than one of them on either side, in equal shares.

**D. Fourth class**

The nearest kin of the deceased living at the death within the sixth degree of kindred, the nearer degree excluding those more remote – In equal shares.

**PROCEDURE FOR THE GRANTING OF LETTERS OF ADMINISTRATION AND DUTIES OF ADMINISTRATORS/EXECUTORS**

**• Administration without will**

1. Application from the administrator, which must be accompanied by

Α. An affidavit by the administrator stating:

* the date and place of death of the deceased,
* the permanent residence of the deceased,
* the fact that the deceased died without leaving a will,
	+ - the value of the estate,
		- the fact that all heirs are adults and of sound mind.

Β. A bond (for twice the value of the estate)

C. An affidavit of surety (for twice the value of the estate)

D. A certificate of death and heirs certified by the President of the Community Council of the region of the deceased

E. Written consent of the heirs to the appointment of the administrator by certification of their signature either by the President of the Community Council or by a certifying official

2. After registration, the administrator must obtain a temporary exemption from the income tax inspector.

3. Administration of property in accordance with the provisions of the law

**• Administration with will**

1. The original shall be deposited with the registrar if it is not already deposited. The original will must be presented, along with the death certificate and an accompanying letter from the person in whose keeping and custody the will was.

2. Application for administration/validation of a will accompanied by

* + a copy of the will,
	+ the executor’s affidavit stating:
* the date and place of death of the deceased,
* the permanent residence of the deceased,
* the value of the estate,
* the name and ID number of the deceased,
* a certificate of death and heirs from the president of the community council,
* the addresses of heirs,
* the consent of heirs,
* an affidavit of witnesses to the will.

3. A true copy of the application is submitted to income tax in order to obtain a temporary tax exemption.

4. Service, where possible, of a true copy of the application to all heirs and publication of notice

5. Administration of estate in accordance with the law and the will

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