

WILLS & ESTATE CHANGES

A SUMMARY OF THE NEW INTESTATE SUCCESSION LEGISLATION: OLD VS NEW (2019)

Topic	Old ISA - <i>The Intestate Succession Act, 1996</i>	New ISA - <i>The Intestate Succession Act, 2019</i>
Term used to describe all lineal descendants of an individual	Used the term "issue" (s. 2)	Uses the term "descendant" (s. 2)
Definition of "prescribed"	Did not define "prescribed" (s. 2)	Clarifies that "prescribed" refers to rules noted in <i>The Intestate Succession Regulations, I-13.2 Reg 1</i> (the "ISA Regs") (s. 2)
Definition of "spouse"	Referred to a person who left the intestate and is cohabiting with another person in a spousal relationship at the time of the intestate's death (s. 2)	Does not refer to a person who left the intestate and is cohabiting with another person in a spousal relationship at the time of the intestate's death (s. 2)
Distribution of property where intestate died leaving a spouse and descendant(s)	Differentiated between intestates who died: (a) before January 12, 1978; (b) between January 12, 1978, and June 22, 1990; and (c) after June 21, 1990 (s. 4-6)	Does not differentiate between intestates based on when they died (s. 6)
Degrees of relationship to the deceased	Did not stipulate a limit on the degree of relationship to the deceased in order to benefit from the estate (s. 12-13)	Stipulates that, unless there are no closer relatives to the intestate, individuals of the 5th or greater degree of relationship to the intestate cannot benefit from the estate; their portion is split between those of the 4th or lesser degree (s. 11(c))
Half-blood relatives	Stipulated that the kindred of half-blood are to inherit equally with those of the whole-blood in the same degree (s. 13)	Does not specifically stipulate that kindred of half-blood and whole-blood are to be treated the same
Advancement	Contained rules with respect to advances made to children (s. 15-16)	Does not contain rules with respect to advances made to children
Rights of children of marriages where one parent was previously married to someone who was presumed to be dead	Stipulated that such children are still entitled to their share of the estate even if it was later found that their parent's former spouse who was presumed dead was not actually deceased (s. 19)	Does not contain specific rules with respect to the rights of such children
When surviving spouse takes no part in the estate	Stipulated that the surviving spouse takes no part in the intestate's estate if: (a) the spouse left the intestate and was cohabiting with another person in a spousal relationship at the time of death (s. 20)	Stipulates that the surviving spouse takes no part in the intestate's estate if the intestate and the spouse: (a) had been living separately for more than 2 years at the time of death (s. 15(1)(a)); (b) were opposing parties to a proceeding under the <i>Divorce Act</i> (Canada), <i>The Family Property Act</i> (Saskatchewan), or <i>The Family Maintenance Act, 1997</i> (Saskatchewan) at the time of death (s. 15(1)(b)); or (c) are parties to an Agreement or Order with respect to their property or other spousal or family issues (s. 15(1)(c)) Exception: Where the surviving spouse reconciled with the intestate and the reconciliation was subsisting at the time of death, the spouse will be permitted to take part in the intestate's estate (s. 15(2))
Distribution of an intestate's real property or interest in land located in Saskatchewan	Did not contain rules with respect to such distributions	Clarifies that the distribution of such property will be dealt with in accordance with the laws of Saskatchewan notwithstanding that the intestate resided outside of Saskatchewan at the time of death (s. 16)
Regulations	Did not contain regulations	Creates the ISA Regs (s. 17)

This table is for information purposes only and should not be taken as legal opinions on any specific facts or circumstances.