

Succession means the acquisition of rights and/or property of a deceased person by law.

The terms “Succession” and “inheritance” are commonly used interchangeably. For purposes of this article, we shall restrict ourselves to the use of the term succession.

What are our laws on Succession?

In Uganda, succession is provided for under various laws. These include; the Constitution of the Republic of Uganda, 1995, the Succession Act, the Administrator Generals Act, the Estates of Missing Persons (Management) Act, the Administration of Estates (Small Estates) (Special Provisions) Act, the Local Council Courts Act, the Probate (Resealing) Act, the Trustees Incorporation Act, the Public Trustee Act, the Administration of Estates by Consular officers Act, the Administration of Estates of Persons of Unsound Mind Act, the Church of England Trustees Act and the Local Governments Act.

These laws set out the substantive law and procedures for matters of succession such as: the succession rights of widows/widowers and children during both testate and intestate succession, protection accorded to the different sexes in succession matters, powers and duties of the office of the Administrator General; powers and duties of an administrator or executor of an estate; jurisdiction of the courts; procedure for obtaining letters of administration or grant of probate; and offences



The origin of Uganda’s law of succession can be traced as far back as the Succession Ordinance of 1906, which was adopted from English law. The Ordinance introduced the British models of succession and inheritance into Uganda as the law applicable to all cases of intestate or testamentary Succession. However, the Ordinance exempted the estates of all natives of the protectorate from the operation of the succession Ordinance and estates of Mohammadans were exempted from the provisions of Part V of the Ordinance.

The 1906 Ordinance saved the application of religious and customary law by natives in succession matters.

Hence Africans' religious (Muhammadan) and customary practices continued to influence their decisions in handling succession matters.

Due to the shortcomings in the Succession Ordinance of 1906, the law was subsequently amended in 1972 by the Succession (Amendment) Decree, to provide for succession to estates of Ugandans dying intestate and restricted the disposal of property by will among other things. The new law recognized the rights of illegitimate and adopted children. It should be noted that many of the provisions above were largely discriminatory on the basis of sex. The application of such provisions left women in an inferior position to that of the men.

The current Succession Act attempted to bring on board the aspirations of the people of Uganda over time. However, the current Succession Act is largely a replica of the provisions of the Succession Amendment Decree and was adopted along with most of gaps and anomalies that existed in the previous law. As a result, the current succession Act necessitates a review to address the gaps and anomalies therein.



TYPES OF SUCCESSION:

1. Testate succession refers to where one upon death there is in existence a legally valid will governing how an estate will be managed.
2. Intestate succession refers one dies having made no legally valid will and subsequently their estate is governed by the rules of intestacy under Section 27 of the Succession Act.