

The Succession Act, 1925

General Principles of Succession

At the core of The Succession Act, 1925 lies the principle that the estate of a deceased person—whether testate or intestate—shall devolve according to a prescribed statutory framework. This Act governs both testamentary and intestate succession for persons of various religions, particularly non-Muslims, as Muslims in Bangladesh follow personal religious laws. Under **Section 5**, the Act provides that succession to the property of a Hindu, Buddhist, Sikh, or Jaina shall be governed by their personal law, while the law applies fully to others including Christians and Parsis. When a person dies intestate, leaving behind no will, the property is distributed among heirs based on class and proximity of kinship. This ensures an equitable distribution of the estate, recognizing both lineal descendants and, in some cases, collateral relatives.

Testamentary Succession and Wills

According to **Section 59**, any person of sound mind and not being a minor may dispose of his property by a will. A will must be executed in writing and signed in the presence of two or more witnesses, who also must sign the document in the presence of the testator. Under the Act, a will can be revoked or modified by the testator at any time before death, except in the case of privileged wills made under special conditions, such as those made by soldiers or seamen. If a person dies having executed a valid will, the property is distributed as per the contents of the will, subject to probate. Any ambiguity in the document may be resolved through interpretation rules under **Sections 74 to 111**, which guide how to read terms such as lapsing legacies, conditional bequests, or residuary clauses.

Grant of Probate and Letters of Administration

When a will is presented for execution, it requires legal authentication known as probate. Under **Section 276**, an application for probate is to be submitted to the appropriate District Judge. If no executor is named, the court may grant **letters of administration** to the legal heir or other suitable person under **Section 278**. The probate or letters of administration act as the legal authority for the executor or administrator to manage the estate, pay debts, and distribute assets according to the will or intestate laws. A probate granted by a competent court carries conclusive authority and ensures that third parties dealing with executors can do so without legal risk. The Act also provides for revocation of probate under **Section 263** if obtained through fraud, concealment, or defective proceedings.

Rights of Heirs and Distribution in Intestacy

In cases where a person dies without a will, **Sections 32 to 49** of the Act govern the rules of intestate succession. The distribution pattern differs for males and females. For instance, in the

case of a male intestate, the property shall first go to the widow, children, and other lineal descendants. If none are alive, it devolves upon kindred such as parents or siblings. Where multiple heirs exist within the same class, the property is divided equally unless otherwise directed. For Christian intestates, **Section 33** provides a specific formula where the widow receives one-third of the property and the remaining two-thirds go to lineal descendants. The Act balances fairness and cultural norms by defining rights of natural children, adopted children, and posthumous births, with careful attention to gender equity and familial bonds.

Protection of Property and Duties of Executors

The Succession Act places strict duties upon executors and administrators to maintain proper accounts and to act in a fiduciary capacity. As per **Section 317**, no person to whom any grant of probate or administration has been made shall, without the leave of the court, dispose of property unless authorized by the will or letters. Executors must prepare an inventory and valuation of the estate under **Section 277**, and failure to do so may lead to legal action. Furthermore, **Section 295** provides for contentious probate proceedings, allowing any interested party to contest a will on grounds of coercion, fraud, or unsoundness of mind. The court has powers to examine witnesses, evaluate evidence, and dismiss or grant probate accordingly. This ensures transparency and judicial oversight in the distribution of estates.

Offences and Penalties under the Act

While the Succession Act is primarily civil in nature, it incorporates certain punitive provisions for fraudulent acts. Under **Section 263**, a probate obtained through misrepresentation or concealment of material facts may be revoked, and the person may face proceedings for perjury or fraud under the Penal Code. Additionally, **Section 295** enables the court to initiate inquiries in contentious matters where forgery or undue influence is suspected. Where an executor wrongfully conceals property or fails to disclose inventory, action can be taken under **Section 317** in conjunction with **Section 424** of the Penal Code, which penalizes dishonest concealment of property. Furthermore, **Section 193** of the Penal Code may be invoked for giving false evidence in probate proceedings, leading to imprisonment or fines. Thus, although the Act does not have a dedicated punishment section, violations are prosecutable under general laws relating to fraud, dishonesty, and misappropriation.

Legal Capacity and Restrictions

The Act lays down that only persons of sound mind and full legal capacity can make valid wills, as per **Section 59**. Minors and those of unsound mind are explicitly excluded from making testamentary dispositions unless they fulfill specific conditions like being privileged testators (e.g., soldiers in active service). Moreover, a will cannot be executed under coercion or undue influence, as such acts vitiate free consent, making the will voidable. Legal restrictions also apply to certain categories of beneficiaries under **Section 67**, which deals with disqualification of legatees who may have caused the testator's death or have criminal motives. These provisions serve to uphold the principle that inheritance should result from legal and moral entitlement rather than manipulation or unlawful actions.
