

(Applicable in respect of the Cape Province excluding the Transkeian Territories.)

1. Succession in terms of sub-section (2) of section twenty-three of the Native Administration Act 1927 (No. 38 of 1927), shall be regulated, subject to the following provisions, in terms of the annexed Table of Succession.

Male descent in the said table shall mean descent through males only.

When the deceased native quitrent allotment holder was a female, it shall be recognized that she herself constituted a principal house. In such case paragraphs 1, 2 and 9 of the table only shall apply.

2. (a) If, within a period of not less than six months after the death of the deceased, the Native Commissioner of the district in which the land is situate has after due inquiry, been unable to determine which male person, if any is entitled to succeed to such land in accordance with these regulations he shall, by notice posted at the court-house of the district, and at or on the land in question, call upon any person claiming to be entitled to succeed to such land in terms of the Table of Succession, to lodge his claim thereto with such Native Commissioner within three months from the date of such notice.

(b) If, after the lapse of a period of not less than two years from the death of the deceased, the Native Commissioner of the district in which such land is situate is satisfied upon reasonable grounds that the male person entitled to succeed thereto in accordance with these regulations has either absconded from the district or is absent therefrom and his whereabouts is unknown, such Native Commissioner shall, by notice posted at the Court-house of the district, and at or on the land in question, call upon such person to lodge his claim thereto with the said Native Commissioner within three months from the date of such notice.

(c) If, within the period prescribed in sub-sections (a) and (b) hereof, no such claims or claims be lodged, or if any be lodged, and, after due inquiry, be disallowed by the Native Commissioner, the Governor-General may authorize the transfer of the land to the person next entitled thereto in accordance with the order of precedence laid down in the Table of Succession.

3. (a) When the holder of any land dies leaving surviving him any widow or partner who was at all times the sole person with whom he had contracted either a marriage or a customary union or who, if not such sole person, was partner of the principal house, such widow or surviving partner shall, until her re-marriage or entrance into another customary union, be entitled, during her residence at the kraal of her late husband, or partner, or at such kraal as may be approved by her late husband's or partner's relatives, to the use and occupation of such land, subject to the obligations imposed by the conditions of title; and during such use and occupation such land shall remain registered in the name of the deceased.

(b) Any widow or surviving partner entitled under the provisions of this section to the use and occupation of land shall be held to have forfeited her rights to such land if, within three months of the personal service upon her of a written notice signed by the Native Commissioner of the district in which such land is situated, calling upon her to notify her acceptance of such rights, she has failed to notify such acceptance.

4. (1) Should the heir under the Table of Succession, at the date when he becomes entitled to succeed to the land registered in the name of the deceased, be already in possession of land in a location held in individual tenure, he shall be required by the Native Commissioner to elect within three months after the death of the deceased or after the termination of any usufructuary rights enjoyed by any widow or surviving partner of the deceased under the provisions of section three, as the case may be, whether he will remain in possession of the land at the time held by him or take possession of the land to which he has become entitled to succeed; and the Chief Native Commissioner shall authorize the transfer of the land which the heir does not select to the person next entitled to succeed to the deceased in accordance with the Table of Succession, who shall not be in possession of land in a location held in individual tenure and who shall not be ineligible to hold such land.

(2) The provisions of section two shall apply mutatis mutandis, to succession in accordance with this section, provided that the date from which the periods of six months and two years therein specified shall be reckoned shall be the date of election by the heir and not the date of the death of the deceased.

5. It shall be lawful for any person entitled to succeed to land under the provisions of these regulations to renounce his right to such land which shall thereupon devolve upon the person next entitled thereto under these regulations, provided that, whenever the person entitled to succeed to such land is a minor, such renunciation shall be made by the guardian of such minor and shall be effective only subject to the following conditions:-

- (i) that evidence on oath or by way of solemn declaration has been given to the Native Commissioner of the district in which the land is situated in support of the renunciation and that such further information relative to the renunciation as the Native Commissioner may require has been furnished: and
- (ii) that the Native Commissioner is satisfied that it would be in the interests of the minor that the renunciation should be accepted: and
- (iii) that the approval of the Chief Native Commissioner has been obtained.

6. Whenever, under the provisions of these regulations, land shall have reverted to the Crown, the Governor-General may in his discretion authorize its transfer to a female member of the family of the deceased or any descendant of any such female or may cause such land to be sold and the proceeds thereof to be divided amongst the female members of the family of the deceased or their descendants.

7. (1) If any native shall desire to disinherit the person entitled to succeed to his land under these regulations by reason of gross misconduct or incapacity to deal with or manage the land or insanity or for any other just cause the Native Commissioner of the district in which such land is situated, on the application of such native, shall summon before him the person whom it is proposed to disinherit, and, in the presence of such person or in his absence in case he should neglect, refuse or be unable by reason of insanity to appear at the time and place mentioned in the summons, shall inquire into all the circumstances and may declare such person disinherited. Subject to the provisions of sub-section (2) any person so disinherited shall not be entitled to succeed to such land which shall upon the death of the holder thereof devolve upon the person next entitled thereto under the provisions of these regulations.

(2) At any subsequent time prior to the death of the holder the Native Commissioner, upon representations to him either by the holder or by the person disinherited may re-open the inquiry and in the event of his being satisfied that the grounds for such disinheritance no longer exist may rescind such disinheritance.

(3) A record shall be kept of all proceedings under sub-sections (1) and (2) of this section and it shall be competent for any person interested in any declaration of disinheritance or the rescission thereof to appeal to the Chief Native Commissioner against any decision of a Native Commissioner within a period of fourteen days from the date of such declaration or rescission. The decision of the Chief Native Commissioner shall be final.

#### SCHEDULE.

##### MALE DESCENT (See paragraph 1. of Part II)

#### TABLE OF SUCCESSION.

1. The deceased's eldest son of the principal house or, if he be dead, such eldest son's senior male descendant, according to native custom.
2. If there be no male descendant of the deceased's eldest son, the deceased's next son of the principal house or his senior male descendant, and so on through the deceased's sons or their senior male descendants respectively and through the deceased's several houses in their order according to Native custom.
3. If there be no son or male descendant of any son of the deceased, the father of the deceased.
4. If the father of the deceased be dead the deceased's eldest brother of the same house or his senior male descendant, and so on through the brothers of that house or their senior male descendants respectively according to native custom.
5. If there be no brother of the deceased of the same house or male descendant of any such brother, the deceased's eldest brother of the allied house of higher rank or next rank as the case may be or his senior male descendant and so on through the brothers of such allied house and their senior male descendants respectively according to native custom, and thereafter through the brothers of the remaining houses in order of rank according to native custom and their senior male descendants respectively.

6. If there be no brother of the deceased or male descendant of any brother of any house, the deceased's eldest paternal uncle in the same house as the deceased's father or such paternal uncle's senior male descendant and so on through the paternal uncles of that house and their senior male descendants respectively according to native custom.

7. If there be no paternal uncle of the deceased or male descendant of any paternal uncle of the house to which deceased's father belonged, the deceased's eldest paternal uncle of the allied house of higher rank or next rank as the case may be according to native custom or his senior male descendant and so on through the deceased's paternal uncles of such allied house and their senior male descendants respectively, and thereafter through the deceased's paternal uncles of the remaining houses in order of rank according to native custom or their senior male descendants respectively.

8. If there be no paternal uncle of the deceased or any male descendant of any such uncle of any house, the paternal grandfather of the deceased.

9. If there be no heir competent and willing to accept transfer of the land under the provisions of this table of Succession the land shall revert to the Crown.

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