

# The Succession Act, 1925

( ACT NO. XXXIX OF 1925 )

**<sup>1</sup>♣An Act to consolidate the law applicable to intestate and testamentary succession in Bangladesh.**

WHEREAS it is expedient to consolidate the law applicable to intestate and testamentary succession in Bangladesh; it is hereby enacted as follows:-

## PART I

### Preliminary

#### Short title

1. This Act may be called the Succession Act, 1925.

#### Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(a) "administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor;

(b) "codicil" means an instrument made in relation to a will and explaining, altering or adding to its dispositions, and shall be deemed to form part of the will;

<sup>2</sup>[(bb) "District Judge" means the Judge of a principal Civil Court of original jurisdiction;]

(c) "executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided;

(d) "Bangladesh Christian" means a citizen of Bangladesh who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion;

(e) "minor" means any person subject to the Majority Act, 1875, who has not attained his majority within the meaning of that Act, and any other

person who has not completed the age of eighteen years; and "minority" means the status of any such person;

(f) "probate" means the copy of a will certified under the seal of a Court of competent jurisdiction with a grant of administration to the estate of the testator;

<sup>3</sup>[\* \* \*]

(h) "will" means the legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death.

**Power of Government to exempt any race, sect or tribe from operation of Act**

3. (1) The Government may, by notification in the official Gazette, either retrospectively from the sixteenth day of March, 1865, or prospectively, exempt from the operation of any of the following provisions of this Act, namely, sections 5 to 49, 58 to 191, 212, 213 and 215 to 369, the members of any race, sect or tribe <sup>4</sup>[\* \* \*], or of any part of such race, sect or tribe, to whom the Government considers it impossible or inexpedient to apply such provisions or any of them mentioned in the order.

(2) The Government may, by a like notification, revoke any such order, but not so that the revocation shall have retrospective effect.

<sup>5</sup>[(3) Persons exempted under this section are referred to as "exempted persons".]

## **PART II**

### **Of Domicile**

**Application of Part**

4. This Part shall not apply if the deceased was a Hindu, Muslim, Buddhist, Sikh or Jaina.

**Law regulating succession to deceased person's immovable and moveable**

5.(1) Succession to the immoveable property in Bangladesh of a person deceased shall be regulated by the law of Bangladesh, wherever such person may have had his domicile at the time of his death.

(2) Succession to the moveable property of a person deceased is regulated by the law of the country in which such person had his domicile at the time of his death.

## property respectively

### Illustrations

(i) A, having his domicile in Bangladesh dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in Bangladesh. The succession to the whole is regulated by the law of Bangladesh.

(ii) A, an Englishman, having his domicile in France, dies in Bangladesh and leaves property, both moveable and immoveable, in Bangladesh. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of Bangladesh.

### One domicile only affects succession to moveables

6. A person can have only one domicile for the purpose of the succession to his moveable property.

### Domicile of origin of person of legitimate birth

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

At the time of the birth of A, his father was domiciled in England, A's domicile of origin is in England, whatever may be the country in which he was born.

### Domicile of origin of illegitimate child

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

### Continuance of domicile of origin

9. The domicile of origin prevails until a new domicile has been acquired.

### Acquisition of new domicile

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.-A man is not to be deemed to have taken up his fixed habitation in Bangladesh merely by reason of his residing there in the civil, military, naval or air force service of Bangladesh or in the exercise of any profession or calling.

#### Illustrations

(i) A, whose domicile of origin is in England, proceeds to Bangladesh, where he settles as a barrister or a merchant, intending to reside there during the remainder of his life. His domicile is now in Bangladesh.

(ii) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(iii) A, whose domicile of origin is in France, comes to reside in Bangladesh under an engagement with the Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in Bangladesh.

(iv) A, whose domicile is in England, goes to reside in Bangladesh for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in Bangladesh, however long the residence may last.

(v) A, having gone to reside in Bangladesh in the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in Bangladesh. A has acquired a domicile in Bangladesh.

(vi) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Dhaka, and resides in Dhaka for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in Bangladesh.

(vii) A, having come to Dhaka in the circumstances stated in the last preceding illustration, continues to reside there after such political changes

have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Dhaka shall be permanent. A has acquired a domicile in Bangladesh.

**Special mode of acquiring domicile in Bangladesh**

11. Any person may acquire a domicile in Bangladesh, by making and depositing in some office in Bangladesh, appointed in this behalf by the Government, a declaration in writing under his hand of his desire to acquire such domicile; provided that he has been resident in Bangladesh for one year immediately preceding the time of his making such declaration.

**Domicile not acquired by residence as representative of foreign Government, or as part of his family**

12. A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with such first-mentioned person as part of his family, or as a servant.

**Continuance of new domicile**

13. A new domicile continues until the former domicile has been resumed or another has been acquired.

**Minor's Domicile**

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.-The domicile of a minor does not change with that of his parent, if the minor is married, or holds any office or employment in the service of <sup>6</sup>[the Republic], or has set up, with the consent of the parent, in any distinct business.

**Domicile acquired by woman on marriage**

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

**Wife's domicile**

16. A wife's domicile during her marriage follows the domicile of her husband.