

Act No. 11, 2009 REFORM OF CUSTOMARY LAW OF SUCCESSION AND
REGULATION OF RELATED MATTERS ACT, 2009

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 19 April 2009.)

ACT

To modify the customary law of succession so as to provide for the devolution of certain property in terms of the law of intestate succession; to clarify certain matters relating to the law of succession and the law of property in relation to persons subject to customary law; and to amend certain laws in this regard; and to provide for matters connected therewith.

PREAMBLE

SINCE a widow in a customary marriage whose husband dies intestate does not enjoy adequate protection and benefit under the customary law of succession;

AND SINCE certain children born out of a customary marriage do not enjoy adequate protection under customary law;

AND SINCE section 9 of the Constitution provides that everyone has the right to equal protection and benefit of the law;

AND SINCE social circumstances have so changed that the customary law of succession no longer provides adequately for the welfare of family members;

AND SINCE the Constitutional Court has declared that the principle of male primogeniture, as applied in the customary law of succession, cannot be reconciled with the current notions of equality and human dignity as contained in the Bill of Rights,

Parliament of the Republic of South Africa therefore enacts as follows:—

Definitions

- In this Act, unless the context indicates otherwise—
 - “**customary law**” means the customs and practices observed among the indigenous African people of South Africa which form part of the culture of those people;
 - “**descendant**” means a person who is a descendant in terms of the Intestate Succession Act, and includes—

NGEMTSETFO WEKUGUCULWA KWEMTSETFO WESINTFU Act No. 11, 2009
WEBUNDLALIFA KANYE NEKUPHATFWA KWEMITSETFO
LEHAMBISANA NAWO, 2009

INCHAZELO NGALOKULOTJIWE:

- [] Emagama lekabhalwe ngalokumnyama lakubakaki labasikwele abonisa lokususiwe kulomtsetfo lomisiwe.
- Emagama ladvwetjelwe ngemugca logcwele abonisa lokufakiwe kulomtsetfo lomisiwe.

*(English text signed by the President.)
(Assented to 19 April 2009.)*

UMTSETFO

Kugucula lomtsetfo wesintfu webundlalifa kute kudluliselwe lenye incenye yemphahla ngekweemtsetfo walabashone bangakabhali tindlela tekwabiwa kwemafa abo, kucacisa letinye tintfo letihambisana nalomtsetfo webundlalifa kanye nalomtsetfo wemphahla kubantfu labatsembela kumtsetfo wesintfu; nekutsi kuchitjiyelwe leminyane imitsetfo; nekugunyata letinye tindzaba letichumana naletfo.

SINGENISO

NJENGOBA umfelokati kumshado wesintfu le-indvodza yakhe ishone ngaphandle kwekwenta incwadzi yelifa akatfokoteli kuvikeleka ngalokwanele kanye nekuhlomula ngaphasi kwemtsetfo wesintfu webundlalifa;

FUTSI NJENGOBA labanye bantfwana labatelwe ngaphandle kwemshado wesintfu abakutfokoteli kuvikeleka ngalokwanele ngaphasi kwemtsetfo wesintfu;

FUTSI NJENGOBA sigaba 9 kuMtsetfosisekelo ugunyata kutsi wonkhe umuntfu unelilungelo lekuvikeleka ngalokulinganako kanye nekuhlomula kutemtsetfo;

FUTSI NJENGOBA simo setenhlalo sesigucuke ngendlela yekutsi lomtsetfo wesintfu webundlalifa awusagunyati ngalokwanele kunakekelwa kwemalunga emndeni;

FUTSI NJENGOBA inkhantolo yeMtsetfosisekelo icinisekise kutsi lenchubo yemntfwana wemfana longewekucala, njengoba kubhaliwe kulomtsetfo wesintfu webundlalifa, angeke ucatsaniswe naletimo tanyalo tekulingana kanye nesitfunti semuntfu njengoba kubhaliwe Kumculu wemalungelo,

IPhalamende yeRiphabhuliki yaseNingizimu Afrika, Itawumisa ngale-ndlela:—

Tinchazelo

1. Kulomtsetfo ngaphandle kwekutsi ingcikitsi ikubeke ngalenyene indlela—
“**umtsetfo wesintfu**” usho emasiko kanye nemikhuba yawo kumuntfu wemdzabu wase Afrika lohlala eNingizimu ne Afrika lekwaikha incenye yemasiko alowo muntfu;
“**situkulwane**” ngekwebudlelwano naloshonile kushiwom umuntfu lositukulwane ngekwe *Intestate Succession Act*, kufaka ekhatsi loku nlokulandzelako—

Act No. 11, 2009 REFORM OF CUSTOMARY LAW OF SUCCESSION AND
REGULATION OF RELATED MATTERS ACT, 2009

- (a) a person who is not a descendant in terms of the Intestate Succession Act, but who, during the lifetime of the deceased person, was accepted by the deceased person in accordance with customary law as his or her own child; and
- (b) a woman referred to in section 2(2)(b) or (c);
- “house” means the family, property, rights and status which arise out of the customary marriage of a woman; 5
- “Intestate Succession Act” means the Intestate Succession Act, 1987 (Act No. 81 of 1987);
- “spouse” includes a partner in a customary marriage that is recognised in terms of section 2 of the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998); 10
- “traditional leader” means a traditional leader as defined in section 1 of the Traditional Leadership and Governance Framework Act, 2004 (Act No. 41 of 2004);
- “this Act” includes any regulation made under section 5; and 15
- “will” means a will to which the provisions of the Wills Act, 1953 (Act No. 7 of 1953), apply.

Modification of customary law of succession

2. (1) The estate or part of the estate of any person who is subject to customary law who dies after the commencement of this Act and whose estate does not devolve in terms of that person’s will, must devolve in accordance with the law of intestate succession as regulated by the Intestate Succession Act, subject to subsection (2). 20

(2) In the application of the Intestate Succession Act—

- (a) where the person referred to in subsection (1) is survived by a spouse, as well as a descendant, such a spouse must inherit a child’s portion of the intestate estate or so much of the intestate estate as does not exceed in value the amount fixed from time to time by the Cabinet member responsible for the administration of justice by notice in the *Gazette*, whichever is the greater; 25
- (b) a woman, other than the spouse of the deceased, with whom he had entered into a union in accordance with customary law for the purpose of providing children for his spouse’s house must, if she survives him, be regarded as a descendant of the deceased; 30
- (c) if the deceased was a woman who was married to another woman under customary law for the purpose of providing children for the deceased’s house, that other woman must, if she survives the deceased, be regarded as a descendant of the deceased. 35

Interpretation of certain provisions of Intestate Succession Act

3. (1) For the purposes of this Act, any reference in section 1 of the Intestate Succession Act to a spouse who survived the deceased must be construed as including every spouse and every woman referred to in paragraphs (a), (b) and (c) of section 2(2). 40

(2) For the purposes of this Act and in the application of section 1(1)(c) of the Intestate Succession Act, the following subparagraph must be regarded as having been added to that section:

- “(iii) where the intestate estate is not sufficient to provide each surviving spouse and woman referred to in paragraphs (a), (b) and (c) of section 2(2) of the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2008, with the amount fixed by the Minister, the estate shall be divided equally between such spouses;” 45

(3) In the determination of a child’s portion for the purposes of dividing the estate of a deceased in terms of the Intestate Succession Act, paragraph (f) of section 1(4) of that Act must be regarded to read as follows: 50

- “(f) a child’s portion, in relation to the intestate estate of the deceased, shall be calculated by dividing the monetary value of the estate by a number equal to the number of children of the deceased who have either survived the deceased or have died before the deceased but are survived by their descendants, plus the number of spouses and women referred to in paragraphs (a), (b) and (c) of section 2(2) of the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2008.” 55

NGEMTSETFO WEKUGUCULWA KWEMTSETFO WESINTFU Act No. 11, 2009
WEBUNDLALIFA KANYE NEKUPHATFWA KWEMITSETFO
LEHAMBISANA NAWO, 2009

- (a) umuntu longasiso situkulwane ngekalomtsetfo we-*Intestate Succession Act*, kodwa lowamukelwa ngulola loshonile ngekwemtsetfo wesintfu njengemfwanakhe, futsi ngaleso sikhatsi salowo muntu; 5
- (b) inkhosikati lekukhulunywe ngaye kusigaba 2(2)(b) noma (c);
“**indlu**” isho umndeni kanye nemphahla, emalungelo kanye nesimo lesicala, lesichomekeke, nalesivuswa, ngumshado wesintfu wemuntu lomsikati; 5
“*Intestate Succession Act*” usho (umtsetfo walabashone bangakabhali tindlela tekwabiwa kwemafa abo) *Intestate Succession Act, 1987 (Act No. 81 of 1987)*;
“**inkhosikati**” kufaka ekhatsi umlingani kumshado wesintfu lovunyelwe ngekwasigaba 2 ku-*Recognition of Customary Marriages Act 1998 (Act No. 102 of 1998)*; 10
- “**umholi wendzabuko**” kusho umholi wendzabuko njengoba kuchaziwe kusigaba 1 we-*Traditional Leadership and Governance Framework Act, 2004 (Act No. 41 of 2004)*;
- “**loMtsetfo**” ufaka ekhatsi nobe ngumuphi umtsetfo lowentiwe ngaphasi kwesigaba 5; futsi 15
- “**incwadzi yelifa**” kusho incwadzi yelifa lapho khona lombandzela we-*Wills Act, 1953 (Act No. 7 of 1953)*, usebenta khona.

Kuguculwa kwalomtsetfo wesintfu webundlalifa

2. (1) Lelifa nobe incenye yalelifa lanobe ngabe ngumuphi umuntu longaphasi kwemtsetfo wesintfu loshone ngembi kwekutsi lomtsetfo ucale kusehenta futsi lelifa lakhe lingakahlukaniswa ngekwewabiwa lokubhalwe phasi ngulowo muntu, litawabiwa ngekwalomtsetfo wekwabiwa kwemafa njengoba kugunyatiwe ngule *Intestate Succession Act*, ngekuya kwasigatjana 2. 20
- (2) Ekusentjetisweni kwale *Intestate Succession Act*— 25
- (a) lapho khona lomuntu lokukhulunywa ngaye kusigatjana (1) ashiye inkhosikati, kanye futsi nesitukulwane, leyo inkhosikati itawutfola incenye yelifa lemntfwana kulelifa lelingakabhalwa kutsi labiwe njani nobe lelo linani lelifa lelisele lelingadluli ngekwabungako bemali lemisiwe lilunga lekhabhinethi ngaleso naleso sikhatsi lekungilo lelibuketa lokuphatfwa kwetebulungiswa ngekwasatiso ku*Gazethi*, noma ngabe ngukuphi lokulungele; 30
- (b) umfati, lokungasuye inkhosikati yaloloshonile lebangene esivumelwaneni ngekwemtsetfo wesintfu ngenhloso yekunakekela bantfwana kulendlu yenkhosikati yakhe, uma ngabe ashone anaye, atsafwe njengesitukulwane saloloshonile; 35
- (c) uma ngabe loloshonile bekungumfati lebekashade nalomunye umfati ngekwemtsetfo wesintfu ngenhloso yekunakekela bantfwana endlini yaloloshonile, lowo lomunye mfati kufanele, uma loloshonile ashone ahlala naye, atsafwe njengesitukulwane saloloshonile. 40

Kuchazwa kwaleminye imibandzela ye-*Interstate Succession Act*

3. (1) Ngekwenhloso yaloMtsetfo, kubuketa kusigaba 1 wale *Intestate Succession Act* inkhosikati leshonelwe itawuchazwa ngalokufaka ekhatsi onkhe emakhosikati lanjala nabo bonkhe bafati loshiwo kundzima (a), (b) na (c) kusigaba 2(2). 45
- (2) Ngekwenhloso yaloMtsetfo kanye nasekusentjetisweni kwasigaba 1(1) we- *Intestate Succession Act*, letindzinyana letilandzelako kufanele titsafwe njengaletingetwe kuleso sigaba: 45
- “(iii) lapho khona lelifa lelingakabhalwa kutsi labiwe njani linganeli kutsi lingabelwa inkhosikati ngayinye kulabashonelwe kanye nalomfati loshiwo kundzima (a), (b) na (c) wasigaba 2(2) we-*Reform of Customary Law of Succession and Regulation of Related Matters Act, 2008*, kulelinani lelibekwe nguNgcongcoshe, lelifa litawuhlukaniswa ngalokulinganako kulawo makhosikati;” 50
- (3) Ekuncumeni incenye yemntfwana ngenhloso yekuhlukanisa lelifa laloloshonile ngekwemtsetfo wesintfu, indzima (f) yesigaba 1(4) yalowoMtsetfo kufanele ufundzeke ngaloluhlobo: 55
- “(f) incenye yemntfwana, ngekwalelifa lelingakabhalwa kutsi labiwe njani laloshonile, litawubalwa ngekuhlukanisa lobungako ngekwemali kwalelifa ngenombolo lelinganako neyebantfwana bemufi lebashiywe ngumufi nobe

Act No. 11, 2009 REFORM OF CUSTOMARY LAW OF SUCCESSION AND
REGULATION OF RELATED MATTERS ACT, 2009

Disposition of property allotted or accruing to woman in customary marriage

4. (1) Property allotted or accruing to a woman or her house under customary law by virtue of her customary marriage may be disposed of in terms of a will of such a woman.
- (2) Any reference in the will of a woman referred to in subsection (1) to her child or children and any reference in section 1 of the Intestate Succession Act to a descendant, in relation to such a woman, must be construed as including any child— 5
- (a) born of a union between the husband of such a woman and another woman entered into in accordance with customary law for the purpose of providing children for the first-mentioned woman's house; or
- (b) born to a woman to whom the first-mentioned woman was married under customary law for the purpose of providing children for the first-mentioned woman's house. 10
- (3) Nothing in this section is to be construed as preventing any person subject to customary law, other than the woman referred to in subsection (1), from disposing assets in terms of a will. 15

Dispute or uncertainty in consequence of nature of customary law

5. (1) If any dispute or uncertainty arises in connection with—
- (a) the status of or any claim by any person in relation to a person whose estate or part thereof must, in terms of this Act, devolve in terms of the Intestate Succession Act; 20
- (b) the nature or content of any asset in such estate; or
- (c) the devolution of family property involved in such estate,
- the Master of the High Court having jurisdiction under the Administration of Estates Act, 1965 (Act No. 66 of 1965), may, subject to subsection (2), make such a determination as may be just and equitable in order to resolve the dispute or remove the uncertainty. 25
- (2) Before making a determination under subsection (1), the Master may direct that an inquiry into the matter be held by a magistrate or a traditional leader in the area in which the Master has jurisdiction.
- (3) After the inquiry referred to in subsection (2), the magistrate or a traditional leader, as the case may be, must make a recommendation to the Master who directed that an inquiry be held. 30
- (4) The Master, in making a determination, or the magistrate or a traditional leader, as the case may be, in making a recommendation referred to in this section, must have due regard to the best interests of the deceased's family members and the equality of spouses in customary and civil marriages. 35
- (5) The Cabinet member responsible for the administration of justice may make regulations regarding any aspect of the inquiry referred to in this section.

Disposal of property held by traditional leader in official capacity

6. Nothing in this Act is to be construed as amending any rule of customary law which regulates the disposal of the property which a traditional leader who has died held in his or her official capacity on behalf of a traditional community referred to in the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003). 40

NGEMTSETFO WEKUGUCULWA KWEMTSETFO WESINTFU Act No. 11, 2009
WEBUNDLALIFA KANYE NEKUPHATFWA KWEMITSETFO
LEHAMBISANA NAWO, 2009

labashone ngembi kwemufi kodvwa bashiye situkulwane, kanye nenombolo yemakhosikati kanye nebafati loshiwo kundzima (a), (b) na (c) wasigaba 2(2) we-*Reform of Customary Law of Succession and Regulation of Related Matters Act, 2008*.”

Kuhlelwa kwabiwa kwemphahla nobe intalo legcogcelwe kunkhosikati kumshado wesintfu 5

4. (1) Imphahla leyabiwe nobe letalele umfati nobe indlu yakhe ngaphasi kwemtsetfo wesintfu ngemandla emshado wakhe wesintfu tingahlelwa ngekwencwadzi yemafa yalowo mfati.

(2) Nobe ngukuphi lokuphatselene nalencwadzi yelifa yemfati loshiwo kusigatjana (1) kumntfwana wakhe nobe bantfwabakhe nobe ngukuphi lokuphatselene nako kusigaba 1 we-*Intestate Succession Act* kusitukulwane, macondzana nalowo mfati, kufanele kuchazwe njengalokufaka ekhatsi nobe ngumuphi umntfwana—

(a) lotelwe ngekwekuhlangana emkhatsini walendvodza yemfati lonjalo kanye nalomunye umfati lebahlanganiswe ngemtsetfo wesintfu ngenhloso yekutala bantfwana kulendlu yalomfati lobalwe ekucaleni; noma

(b) lotelwe kumfati lelomfati lobaliwe ekucaleni beakashade ngekwemtsetfo wesintfu ngesizatfu sekunakekela bantfwana kulendlu yalomfati lobalwe kwekucala.

(3) Akukho kulesigaba lokutawuhunyushwa njengalokuvikela noma bani ngekwemtsetfo wesintfu, ngaphandle kwalomfati loshiwo kusigatjana (1), kwabiwa kwetimphahla ngekwencwadzi yekwabiwa kwelifa. 20

Kungavumelani nobe kungaciniseki ngemiphumela yesimo semshado wesintfu

5. (1) uma ngabe kuba khona kungavumelani nobe kungaciniseki ngekw—

(a) simo nobe ngabe ngusiphi sicelo lesifakwa nobe ngumuphi umuntu lohlobene nemuntu lelifa lakhe nobe incenye yalo kufanele, ngekusho kwaloMtsetfo alidlulisele ngekusho kwe *Interstate Succession Act*;

(b) simo nobe lokusekhatsi kwanobe nguyiphi imphahla kulelo lifa; nobe

(c) lokudluliselwa kulomunye kwetimphahla temndeni; letitsintsekako kulelo lifa, 30

Indvuna yenkantolo lephakeme (*Master of the High Court*) lenemandla ngete-*Administration of Estates Act, 1965 (Act No. 66 of 1965)*, ngekuvunyelwa kusigatjana (2), ingenta sincumo lesinjalo lesitawubonakala kuye sineliciniso nobe silinganisa kute kusonjululwe lokungavumelani nobe kususwe lokungabata.

(2) Ngembi kwekutsi kwentiwe lesincumo ngekwesigatjana (1) Indvuna ingancuma kutsi kube neluphenyo ngaloludzaba lweniwe nguMantji noma umholi wenzabuko njengoba kungabekwa kulesigodzi lapho Indvuna iphetse khona. 35

(3) Ngemva kwekutsi kube naloluphenyo lolubukwe kusigatjana (2), Mantji noma umholi wenzabuko njengoba kungabekwa kufanele ente sincomo kuNdvuna loyalele kutsi kube naloluphenyo. 40

(4) Ndvuna, ekwenteni sincumo, nobe Mantji ekwenteni sincomo lesivetwe kulesigaba, kufanele abeke embili loku lokulusito kumalunga alomndeni loшонelwe kanye nekulingana kwalamakhosikati lashade ngesintfu kanye nalashade ngesilungu.

(5) Nobe ngabe ngusiphi sincumo lesentiwe ngaphasi kwalesigaba kufanele sentiwe ngekulandzela imibandzela ye-*Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)*. 45

(6) Lelilunga leKhabhinethi lekungilo lelibukene netekuphatsa kwetebulungiswa lingenta umtsetfo lobukene nobe yini lebukene naloluphenyo loluvelwe kulesigaba.

Kuhlelwa kwemphahla lebanjwe ngumholi wenzabuko ngekwemandla embuso

6. Akukho kuloMtsetfo lokutawuhunyushwa njengalokuchibiyela noma ngumuphi umtsetfo walomtsetfo wesintfu logunyata lokuhlelwa kwemphahla yemholi wenzabuko lesekashonile lephetfwe ngulowo mholi wenzabuko kuleso sikhundla sakhe lesisemtsetfweni ngekubambela ummango wenzabuko loshiwo ku*Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003)*. 50

Act No. 11, 2009 REFORM OF CUSTOMARY LAW OF SUCCESSION AND
REGULATION OF RELATED MATTERS ACT, 2009

Property rights in relation to certain customary marriages

7. (1) A marriage under the Marriage Act, 1961 (Act No. 25 of 1961), does not affect the proprietary rights of any spouse of a customary marriage or any issue thereof if the marriage under the Marriage Act, 1961, was entered into—

- (a) on or after 1 January 1929 (the date of commencement of sections 22 and 23 of the Black Administration Act, 1927 (Act No. 38 of 1927)), but before 2 December 1988 (the date of commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988 (Act No. 3 of 1988)); and
- (b) during the subsistence of any customary marriage between the husband and any woman other than the spouse of the marriage under the Marriage Act, 1961 (Act No. 25 of 1961).

(2) The widow of the marriage under the Marriage Act, 1961, referred to in subsection (1), and the issue thereof have no greater rights in respect of the estate of the deceased spouse than she or they would have had if the marriage under the Marriage Act, 1961, had been a customary marriage.

Amendment of laws

8. The laws mentioned in the Schedule are hereby amended to the extent indicated in the third column of that Schedule.

Short title and commencement

9. This Act is called the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

NGEMTSETFO WEKUGUCULWA KWEMTSETFO WESINTFU Act No. 11, 2009
WEBUNDLALIFA KANYE NEKUPHATFWA KWEMITSETFO
LEHAMBISANA NAWO, 2009

Emalungelo kumphahla ngekuhambisana naleminy e imitsetfo yemshado wesintfu

7. (1) Umshado ngaphasi kwe-*Marriage Act, 1961 (Act No. 25 of 1961)*, awuwatsintsi emalungelo ebunikati anobe ngumuphi nkhosikati kumshado wesintfu nobe ngabe nguluphi ludzaba uma lomshado longaphasi kwe-*Marriage Act, 1961* bewubhaliswe—
- (a) Leso sikhatsi nobe ngemva kwamhlaka 1 Bhimbhidvwane 1929 (lusuku lekusungulwa kwesigaba 22 kanye na 23 we-*Black Administration Act, 1927 (Act 38 of 1988)*), kodvwa ngembi kwamhlaka 2 Ingongoni 1988 (lolusuku lwekucalwa kwe-*Marriage and Matrimonial Property Law Amendment Act, 1988 (Act No. 3 of 1988)*); futsi 5
- (b) ngalesikhatsi kusenekulekelelwa kwalomshado wesintfu emkhatsini wendvodza kanye nanobe ngumuphi umfati kungasuye lonkhosikati loshadwe ngaphasi kwe *Marriage Act, 1961 (Act No. 25 of 1961)*. 10
- (2) Lomfelokati walomshado longaphasi kwe *Marriage Act, 1961*, lovetwe kusigatjana (1), naloludzaba lwayo angeke lube nemalungelo langako ngekwemafa alonkhosikati loshonelwe lebebangaba nawo uma lomshado longaphasi kwe *Marriage Act, 1961*, bewungumshado wesintfu. 15

Kuchitjiyelwa kwemitsetfo

8. Lemitsetfo lebalwe kulelihlelo itawuchitjiyelwa kuze kufike kuloku lokuboniswe kulekholamu yesitsatfu yalelo lihlelo.

Sihlokwana kanye nekusungula

20

9. LoMtsetfo utawubitwa ngeMtsetfo weKuguculwa kweMtsetfo weSintfu weBundlalifa kanye Nekuphatfwa kweMitsetfo Lehambisana Nawo, 2009, utawucala kusebenta ngelusuku lolutawubekwa nguMongameli ngekulumemetela ku*Gazethi*.

Act No. 11, 2009 REFORM OF CUSTOMARY LAW OF SUCCESSION AND
REGULATION OF RELATED MATTERS ACT, 2009

SCHEDULE

(Amendment of laws)

(Section 8)

No. and year of law	Short title	Extent of amendment	5
Act 66 of 1965	Administration of Estates Act, 1965	<p>1. The amendment of section 4— (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “In respect of the estate of a deceased person [which is not governed by the principles of customary law], or of any portion thereof, jurisdiction shall lie—”; and (b) by the deletion of subsection (1A).</p> <p>2. The amendment of section 7 by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) the surviving spouse of such person or <u>more than one surviving spouse jointly</u>, or if there is no surviving spouse, his or her nearest relative or connection residing in the district in which the death has taken place, shall within fourteen days thereafter give a notice of death substantially in the prescribed form, or cause such a notice to be given to the Master; and”.</p> <p>3. The amendment of section 9 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “(1) If any person dies within the Republic or if any person ordinarily resident in the Republic at the time of his or her death dies outside the Republic leaving any property therein, the surviving spouse of such person or <u>more than one surviving spouse jointly</u>, or if there is no surviving spouse, his or her nearest relative or connection residing in the district in which such person was ordinarily resident at the time of his or her death, shall, within fourteen days after the death or within such further period as the Master may allow—”.</p>	10 15 20 25 30 35 40 45
Act 81 of 1987	Intestate Succession Act, 1987	<p>1. The amendment of section 1— (a) by the substitution for subsection (2) of the following subsection: “(2) Notwithstanding the provisions of any law or the common or customary law, but subject to the provisions of this Act and [section 5(2) of the Children’s Status Act, 1987, illegitimacy] sections 40(3) and 297(1)(f) of the Children’s Act, 2005 (Act No. 38 of 2005), having been born out of wedlock shall not affect the capacity of one blood relation to inherit the intestate estate of another blood relation.”;</p>	50 55 60

NGEMTSETFO WEKUGUCULWA KWEMTSETFO WESINTFU Act No. 11, 2009
 WEBUNDLALIFA KANYE NEKUPHATFWA KWEMITSETFO
 LEHAMBISANA NAWO, 2009

LUHLA

(Kuchitjijyelwa kwemitsetfo)
 (Sigaba 8)

No. en jaar van Wet	Kort titel	Omvang van wysiging	5
Wet 66 van 1965	Boedelwet, 1965	<p>1. Die wysiging van artikel 4— (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Ten opsigte van die boedel van ’n oorledene [wat nie ingevolge die beginsels van die gewoontereg gereguleer word nie], of van enige gedeelte daarvan, berus die regsbevoegdheid—”; en (b) deur subartikel (1A) te skrap.</p> <p>2. Die wysiging van artikel 7 deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: “(a) moet die langsewende eggenoot van daardie persoon of meer as een eggenoot gesamentlik, of as daar geen langsewende eggenoot is nie, sy of haar naaste bloed- of aanverwant wat in die distrik woon waarin die dood plaasgevind het, binne veertien dae daarna aan die Meester ’n sterfkennis in hoofsaak in die voorgeskrewe vorm gee of laat gee; en”.</p> <p>3. Die wysiging van artikel 9 deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “(1) Indien iemand in die Republiek te sterwe kom, of indien iemand wat ten tyde van sy of haar dood sy gewone verblyf in die Republiek gehad het, buite die Republiek te sterwe kom en goed daarin nalaat, moet die langsewende eggenoot van daardie persoon of meer as een oorlewende eggenoot gesamentlik, of as daar geen langsewende eggenoot is nie, sy of haar naaste bloed- of aanverwant wat in die distrik woon waarin daardie persoon ten tyde van sy of haar dood sy of haar gewone verblyf gehad het, binne veertien dae na die dood of binne die verdere tydperk wat die Meester toestaan—”.</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>
Wet 81 van 1987	Intestate Erfopvolgingswet, 1987	<p>1. Die wysiging van artikel 1— (a) deur subartikel (2) deur die volgende subartikel te vervang: “(2) Ondanks die bepalings van enige wet of die gemene reg of gewoontereg, maar behoudens die bepalings van hierdie Wet en [artikel 5(2) van die Wet op die Status van Kinders, 1987] artikels 40(3) en 297(1)(f) van die ‘Children’s Act, 2005’ (Wet No. 38 van 2005), raak buitewettigheid nie die bevoegdheid van een bloedverwant om die intestate boedel van ’n ander bloedverwant te erf nie.”;</p>	<p>50</p> <p>55</p> <p>60</p>

Act No. 11, 2009 REFORM OF CUSTOMARY LAW OF SUCCESSION AND
REGULATION OF RELATED MATTERS ACT, 2009

No. and year of law	Short title	Extent of amendment
		<p>(b) by the substitution in subsection (4) for paragraph (b) of the following paragraph: “(b) ‘intestate estate’ includes any part of an estate which does not devolve by virtue of a will [or in respect of which section 23 of the Black Administration Act, 1927 (Act No. 38 of 1927), does not apply];” and</p> <p>(c) by the insertion in subsection (4), after paragraph (e), of the following paragraph: “(eA) A person referred to in paragraph (a) of the definition of ‘descendant’ contained in section 1 of the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009, shall be deemed— (i) to be a descendant of the deceased person referred to in that paragraph; (ii) not to be a descendant of his or her natural parent or parents, except in the case of a natural parent who is also the parent who accepted that person in accordance with customary law as his or her own child, as envisaged in the said definition, or was, at the time when the child was accepted, married to the parent who so accepted the child; and”;</p> <p>(d) by the insertion after subsection (5) of the following subsection: “(5A) If a person referred to in paragraph (a) of the definition of ‘descendant’ contained in section 1 of the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009, is deemed to be a descendant of the deceased person referred to in that paragraph, or is deemed not to be a descendant of his or her natural parent, the deceased person shall be deemed to be an ancestor of the person referred to in that paragraph, or shall be deemed not to be an ancestor of that person, as the case may be.”</p>
Act 27 of 1990	Maintenance of Surviving Spouses Act, 1990	<p>1. The amendment of section 1 by the substitution for the definition of “survivor” of the following definition: “‘survivor’ means the surviving spouse in a marriage dissolved by death, and includes a spouse of a customary marriage which was dissolved by a civil marriage contracted by her husband in the customary marriage to another woman on or after 1 January 1929 (the date of commencement of sections 22 and 23 of the Black Administration Act, 1927 (Act No. 38 of 1927)), but before 2 December 1988 (the date of commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988 (Act No. 3 of 1988));”.</p>

NGEMTSETFO WEKUGUCULWA KWEMTSETFO WESINTFU Act No. 11, 2009
WEBUNDLALIFA KANYE NEKUPHATFWA KWEMITSETFO
LEHAMBISANA NAWO, 2009

No. en jaar van Wet	Kort titel	Omvang van wysiging
		<p>(b) deur in subartikel (4) paragraaf (b) deur die volgende paragraaf te vervang: “(b) beteken ‘intestate boedel’ ook enige gedeelte van ’n boedel wat nie uit hoofde van ’n testament vererf nie [of ten opsigte waarvan artikel 23 van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), nie van toepassing is nie];” en</p> <p>(c) deur in subartikel (4) na paragraaf (e) die volgende paragraaf in te voeg: “(eA) ’n Persoon bedoel in paragraaf (a) van die woordoms krywing van “<u>descendant</u>” vervat in artikel I van die “<u>Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009</u>”, word geag— (i) die afstammeling te wees van die <u>oorledene bedoel in daardie paragraaf</u>; (ii) nie ’n afstammeling van sy of haar natuurlike ouer of ouers te wees nie, behalwe in die geval van ’n natuurlike ouer wat ook die ouer is wat daardie persoon ooreenkomstig die <u>gewoontereg as sy of haar eie kind aanvaar het, soos beoog in vermelde woordoms krywing, of ten tyde van die aanvaarding van die kind, met die ouer wat die kind aldus aanvaar het, getroud was; en</u>” en</p> <p>(d) deur die volgende subartikel na subartikel (5) in te voeg: “(5A) Indien die persoon bedoel in paragraaf (a) van die woordoms krywing van “<u>descendant</u>” vervat in artikel I van die “<u>Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009</u>”, geag word ’n afstammeling te wees van die <u>oorledene bedoel in daardie paragraaf, of geag word nie ’n afstammeling van sy natuurlike ouer te wees nie, word die oorledene geag ’n voorouer van die persoon bedoel in daardie paragraaf te wees of geag nie ’n voorouer van daardie persoon te wees nie, na gelang van die geval.</u>”</p>
Wet 27 van 1990	Wet op Onderhoud van Langslewende Gades, 1990	<p>1. Die wysiging van artikel 1 deur die woordoms krywing van “<u>oorlewende</u>” deur die volgende woordoms krywing te vervang: “langslewende’ in ’n huwelik wat deur die dood ontbind is die <u>langslewende gade, en sluit ’n gade in van ’n gewoonteregtelike huwelik wat ontbind is deur ’n siviele huwelik aangegaan deur die man in die gebruikelike huwelik met ’n ander vrou op of na 1 Januarie 1929 (die aanvangsdatum van artikels 22 en 23 van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), maar voor 2 Desember 1988 (die aanvangsdatum van die Wysigingswet op Huweliks- en Huweliksgoederereg, 1988 (Wet No. 3 van 1988))</u>”.</p>