

CHAPTER 31:02
LAW OF INHERITANCE
ARRANGEMENT OF SECTIONS

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HCP 1891,
Cap. 86, 1959.

An Act to amend the law as to inheritance, to repeal the *Lex Hac Edictali*, and to remove certain restrictions on the freedom of disposition of property by last will and testament.
[Date of Commencement: 10th June, 1891]

PART I
Preliminary (s 1)

1. Short title

This Act may be cited as the Law of Inheritance Act.

PART II

Falcidian and Trebellianic Laws and Lex Hac Edictali (ss 2-3)

2. Heir not entitled to deduct any portion under Falcidian and Trebellianic laws

In no case shall any heir of anyone dying after the commencement of this Act be entitled to deduct out of the estate of the person so dying any portion under or by virtue of the laws known respectively as the *Falcidian* and the *Trebellianic* laws, which, but for such laws respectively, such heir would not be entitled to claim or deduct.

3. *Lex Hac Edictali* repealed

From and after the commencement of this Act the sixth law of the ninth title of the fifth book of the Codes of Justinian, commencing with the words *Hac Edictali*, and commonly called or known as the Law or *Lex Hac Edictali*, shall be and the same is hereby repealed.

PART III

General (ss 4-7)

4. No legitimate portion can be claimed of right

No legitimate portion shall be claimable as of right by anyone out of the estate of any person who dies after the commencement of this Act.

5. Persons making will may disinherit any child, etc., without assigning reasons

Every person competent to make a will shall have full power by any will executed after the commencement of this Act to disinherit or omit to mention any child, parent, relative or descendant without assigning any reason for such disinheritance or omission, any law, usage or custom now or heretofore in force in Botswana notwithstanding; and no such will as aforesaid

shall be liable to be set aside as invalid, either wholly or in part, by reason of such disinheritance or omission as aforesaid.

6. Existing laws of inheritance *ab intestato* to remain in force

Nothing contained in this Part shall affect or alter the laws of inheritance *ab intestato* at present in force in Botswana.

7. Existing laws of community of property to remain in force

Nothing in this Part shall extend to or alter or affect the laws of Botswana regarding community of property between spouses, when not excluded by antenuptial contract.