

Civil Code of the PRC — Book VI: Inheritance

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Chapter I — General Provisions

Article 1 — This Book is enacted in accordance with the Constitution for the purposes of protecting the right of inheritance of citizens.

Article 2 — Succession begins upon the death of the decedent.

Article 3 — An estate comprises all the lawful property left behind by a natural person upon death. An estate shall not be inherited in accordance with the provisions of this Book if the law provides otherwise or the nature of the property so requires.

Article 4 — The state protects the right of a natural person to dispose of his or her property by will as the law provides, and protects the right of a natural person to enter into an agreement on testamentary care and support.

Article 5 — After succession begins, it shall be handled in accordance with the provisions on statutory succession; where there is a will, it shall be handled in accordance with testamentary succession or testamentary gift; and where there is an agreement on testamentary care and support, it shall be dealt with in accordance with the terms of the agreement.

Article 6 — Where a person without or with limited capacity for civil conduct is entitled to exercise the right of inheritance or the right to receive a testamentary gift, the person's guardian shall exercise such rights on the person's behalf. After succession begins, the guardian of an heir who has abandoned the right of inheritance or of a testamentary beneficiary who has abandoned the right to receive a testamentary gift shall not act as

an agent on behalf of such heir or beneficiary.

Article 7 — Where an heir commits any of the following acts, the heir shall be disinherited:

1. Intentionally killing the decedent;
2. Killing other heirs in a dispute over the estate;
3. Abandoning the decedent or egregiously maltreating the decedent;
4. Egregiously forging, altering, concealing, or destroying a will;
5. Compelling or obstructing the decedent to make, alter, or revoke a will by fraud or duress, where the circumstances are serious.

Where an heir commits any of the acts specified in Items 3 through 5 of the preceding paragraph but has truly demonstrated repentance, and the decedent expresses forgiveness or lists the heir as a successor in a subsequent will, the heir shall not lose the right of inheritance. A testamentary beneficiary who commits an act specified in the first paragraph of this article shall lose the right to receive a testamentary gift.

Chapter II — Intestate Succession

Article 8 — Males and females are equal in the right of inheritance.

Article 9 — An estate shall be inherited in the following order of priority:

First in order: spouse, children, and parents;

Second in order: brothers and sisters, paternal grandparents, and maternal grandparents.

Where succession starts, the heirs first in order shall inherit the estate to the exclusion of the heirs second in order. Where there is no heir first in order, the heirs second in order shall inherit. For purposes of this Book, the term "children" includes legitimate children, illegitimate children, adopted children, and stepchildren who have a relationship of care and support; the term "parents" includes natural parents, adoptive parents, and stepparents who have a relationship of care and support; the term "brothers and sisters" includes brothers and sisters of the same parents, half-brothers and half-sisters, adopted brothers and sisters, and stepbrothers and stepsisters who have a relationship of care and support.

Article 10 — Where the decedent's child dies before the decedent, the lineal descendants of the deceased child shall inherit in subrogation. Where the decedent's brother or sister dies before the decedent, the children of the deceased brother or sister shall inherit in subrogation. A person inheriting in subrogation generally takes only the share of the estate that the person's parent or sibling was entitled to inherit.

Article 11 — A widowed daughter-in-law or widowed son-in-law who has made predominant contributions to the support of his or her father-in-law or mother-in-law shall be regarded as an heir first in order.

Article 12 — Heirs who are entitled to the same order shall generally inherit in equal shares. In the distribution of the estate, special consideration shall be given to an heir who has had special difficulties in life and lacks the ability to work. In the distribution of the estate, an heir who has assumed predominant support obligations to the decedent or has lived together with the decedent may be apportioned a larger share. An heir entitled to support who had the ability to provide support but failed to fulfill support obligations may be apportioned no share or a smaller share of the estate. Heirs may, through consultation, agree to unequal distribution.

Article 13 — An appropriate share of the estate may be given to a person other than an heir who had been dependent upon the decedent for their livelihood, or to a person other than an heir who has assumed relatively significant support obligations to the decedent. Such share may be more than that of an heir, depending on the circumstances.

Article 14 — Heirs shall, acting in a spirit of mutual understanding, mutual accommodation, harmony and unity, negotiate to resolve issues related to succession. The time and mode for the partition of the estate and the shares to be distributed shall be determined by the heirs through consultation. Where consultation fails, the heirs may apply to a people's mediation committee for mediation or bring a lawsuit in a people's court.

Chapter III — Testamentary Succession and Testamentary Gift

Article 15 — A natural person may dispose of his or her own property by making a will in accordance with the provisions of this Book, and may designate an executor of the will. A natural person may, by making a will, designate one or several statutory heirs to inherit his or her personal property. A natural person may, by making a will, donate his or her personal property to the state, a collective, or an organization or individual other than a statutory heir. A natural person may establish a testamentary trust in accordance with the law.

Article 16 — A will shall express the genuine intention of the testator; a will made by fraud or under duress is void. A forged will is void. Where a will has been tampered with, the tampered portions are void.

Article 17 — A will made by a person without or with limited capacity for civil conduct is void. A will must express the genuine intention of the testator. A will made by a person under duress or by fraud is void.

Article 18 — In a will, a necessary portion of the estate shall be reserved for an heir who has neither the ability to work nor a source of livelihood.

Article 19 — A testator may revoke or alter a will he or she has made. After a decedent has executed a civil juristic act with contents contrary to those of the will, the contrary intention is deemed to revoke the relevant provisions of the will. Where several wills have been made and their contents are inconsistent, the last will shall prevail.

Article 20 — Where the testator has made a gift by notarized will or has entered into an agreement on testamentary care and support, a will made by the testator thereafter shall not revoke the notarized will or the agreement on testamentary care and support, except where the will made thereafter is also a notarized will. Where a testator makes several wills and the contents of the wills are inconsistent, the last notarized will shall prevail; where no notarized will is involved, the last will shall prevail.

Article 21 — A will with a condition precedent or a condition subsequent attached to succession or a testamentary gift shall take effect upon fulfillment of the condition. A will with a condition subsequent attached to succession or a testamentary gift shall cease to be effective upon fulfillment of the condition.

Article 22 — Where there is no heir or testamentary beneficiary to the estate, or an heir has abandoned the right of inheritance or a testamentary beneficiary has abandoned the testamentary gift, the estate affected by such abandonment shall be disposed of in accordance with the provisions on statutory succession. Where an heir designated in a will or a testamentary beneficiary dies before the testator, succession to the estate shall be governed by statutory succession. Where an heir designated in a will or a testamentary beneficiary loses the right of inheritance or the right to receive a testamentary gift, and there is no express provision in the will to the contrary, the estate involved shall be disposed of in accordance with statutory succession.

Article 23 — The following persons shall not act as a witness to a will: (1) a person without or with limited capacity for civil conduct; (2) an heir or a testamentary beneficiary; or (3) a person who has an interest in the heir or testamentary beneficiary.

Article 24 — A testator may make a will in the following forms: (1) a holographic will; (2) a will written on behalf of the testator; (3) a will in printed form; (4) a will made in the form of an audio or video recording; (5) an oral will; and (6) a notarized will.

Article 25 — A holographic will shall be entirely handwritten and signed by the testator, with the year, month, and day indicated.

Article 26 — Where a testator, for some reason, is unable to write a will personally, the testator may ask another person to write it on his or her behalf. A will written on behalf of the testator shall be attested by two or more witnesses, one of whom shall write the will, and it shall be signed by the writer, the other witnesses, and the testator, with the year, month, and day indicated.

Article 27 — A printed will shall be attested by two or more witnesses. The testator and the witnesses shall sign their names on each page of the will and indicate the year, month, and day.

Article 28 — Where a will is made in the form of an audio or video recording, there shall be two or more witnesses present to testify. The testator and the witnesses shall record their names or likenesses in the recording, along with the year, month, and day.

Article 29 — A testator may make an oral will in an emergency situation. An oral will shall be attested by two or more witnesses. If, after the emergency situation has ceased, the testator is able to make a will in writing or in the form of an audio or video recording, the oral will shall become void.

Article 30 — A notarized will shall be made by a testator through a notary institution.

Article 31 — A guardian shall not make a will on behalf of the person under guardianship.

Article 32 — Where a natural person has entered into an agreement on testamentary care and support with an organization or an individual other than an heir, in accordance with the agreement, the organization or individual shall assume the obligations of care and support for the natural person during his or her lifetime, and shall be entitled to receive a testamentary gift upon the death of the natural person. Where an organization or individual has entered into an agreement on testamentary care and support with a natural person, and the organization or individual fails to perform its obligations without cause, the natural person or an interested party may rescind the agreement. Where an organization or individual performs its obligations under the agreement, the agreement shall not be rescinded without the consent of both parties.

Chapter IV — Disposition of Estate

Article 33 — The surviving spouse, children, and parents, as well as any other person who is entitled to inherit or manages the affairs of the estate, shall promptly notify the other heirs and the executor of the will, if any, after the death of the decedent or after learning of the death of the decedent. Where none of the heirs knows of the death of the decedent or, despite knowing of the death, is unable to notify the other heirs or the executor, the employer of the decedent, or the residents' committee or villagers' committee of the place where the decedent had his or her domicile before death, shall be responsible for giving the notice.

Article 34 — A person who possesses an estate shall properly keep the estate, and no organization or individual shall misappropriate or seize it. Where a person has misappropriated or seized an estate, the person shall return it; where the person is unable to return it, the person shall make compensation.

Article 35 — Where a person managing the affairs of an estate is unable to do so, the person may entrust other persons or professional institutions to manage the affairs on his or her behalf.

Article 36 — An estate shall be divided after deducting the funeral expenses of the decedent and the debts owed by the decedent, subject to the provisions of Article 37 of this Book. An estate shall be divided while retaining the share for the fetus. If the fetus is stillborn, the retained share shall be handled in accordance with the provisions on statutory succession. The share of an estate of an heir who has died before the estate is divided shall be inherited by the heirs of the deceased heir, unless otherwise provided by the will.

Article 37 — The taxes and debts owed by a decedent that shall be paid shall be settled from the decedent's estate; however, the portion necessary for the support of an heir who is unable to work and has no source of livelihood shall be retained. If there is no estate to inherit and there is an heir who has voluntarily paid the taxes and debts in excess of the estate value, the heir shall not be restricted by this provision. Where an heir abandons the right of inheritance, the heir shall not bear responsibility for the payment of any taxes and

debts that the decedent shall pay in accordance with the law.

Article 38 — Where there is an executor, the executor shall be responsible for handling the testamentary affairs. Where there is no executor, the heirs shall promptly appoint an executor; where the heirs have not appointed an executor, all the heirs shall act as executors jointly. Where there is a dispute between the heirs as to the appointment of an executor, an interested party may apply to a people's court for the appointment of an executor. Where a residents' committee, villagers' committee, or civil affairs department of a people's government is the keeper of an estate under Article 1145 of the Civil Code, it may act as executor.

Article 39 — The heirs of a decedent shall be the keepers of the estate of the decedent. Where there is no heir or all heirs have abandoned the right of inheritance, the residents' committee or villagers' committee of the place where the decedent had his or her domicile before death or the civil affairs department of a people's government shall be the keeper. Where there is a dispute over the determination of the keeper, an interested party may apply to a people's court for the appointment of a keeper. The keeper shall perform the following duties: (1) to sort out the estate and prepare an inventory of estate; (2) to report the estate to the heirs; (3) to take necessary measures to prevent the estate from being damaged, lost, or destroyed; (4) to handle the claims and debts of the decedent; (5) to divide the estate in accordance with a will or the law; and (6) to perform other necessary acts in relation to the administration of the estate.

Article 40 — An executor or keeper of an estate that has been managed shall be entitled to receive remuneration in accordance with the law or the agreement.

Article 41 — Where a person inheriting an estate shall pay taxes and debts owed by the decedent in accordance with the law, such payment shall be made from the estate actually inherited; and where the value of the estate actually inherited is insufficient to cover the payment, the shortfall may be voluntarily paid off by the heir. Where an heir abandons the right of inheritance, he or she shall not bear any responsibility for the payment of the taxes and debts that the decedent shall pay in accordance with the law. Where an estate is escheated to the state, the entity accepting the escheated estate shall use the estate value to pay the taxes and debts that the decedent shall pay.

Article 42 — Where a person other than an heir who is entitled to receive an appropriate share of the estate as provided in Article 13 of this Book is entitled to a larger share than an heir, the person may participate in the distribution of the estate as an independent category. Where the estate is insufficient to satisfy the taxes, debts, and testamentary gifts, the claims of such person shall be settled from the estate before the claim of a testamentary beneficiary.

Article 43 — Where neither an heir nor a testamentary beneficiary exists, or all the heirs and testamentary beneficiaries have abandoned their rights, the estate shall be escheated to the state and used for public welfare. Where the decedent was a member of a collective economic organization, the estate shall belong to the collective economic organization.

Article 44 — Where an heir has an obligation to support the decedent but has failed to provide such support, the heir's share of the estate shall be reduced or forfeited. Where a person other than an heir who has depended on the decedent for support, or a person other than an heir who has provided relatively significant support to the decedent, may be given an appropriate share of the estate, such share may be larger than the share of an heir depending on the specific circumstances.

Article 45 — This Book shall come into force on January 1, 2021. The Inheritance Law of the People's Republic of China shall be repealed on the same date.

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