



Administration of Justice Act 1982

1982 CHAPTER 53

PART IV

WILLS

Amendments of Wills Act 1837

17 Relaxation of formal requirements for making wills

The following section shall be substituted for section 9 of the Wills Act 1837—

“9 Signing and attestation of wills.

No will shall be valid unless—

- (a) it is in writing, and signed by the testator, or by some other person in his presence and by his direction; and
- (b) it appears that the testator intended by his signature to give effect to the will; and
- (c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and (d) each witness either—

(i) attests and signs the will; or

(ii) acknowledges his signature,

in the presence of the testator (but not necessarily in the presence of any other witness),

but no form of attestation shall be necessary.”.

18 Effect of marriage or its termination on wills

(1) The following section shall be substituted for section 18 of the Wills Act 1837—

Status: This is the original version (as it was originally enacted).

“18 Wills to be revoked by marriage, except in certain cases.

- (1) Subject to subsections (2) to (4) below, a will shall be revoked by the testator's marriage.
 - (2) A disposition in a will in exercise of a power of appointment shall take effect notwithstanding the testator's subsequent marriage unless the property so appointed would in default of appointment pass to his personal representatives.
 - (3) Where it appears from a will that at the time it was made the testator was expecting to be married to a particular person and that he intended that the will should not be revoked by the marriage, the will shall not be revoked by his marriage to that person.
 - (4) Where it appears from a will that at the time it was made the testator was expecting to be married to a particular person and that he intended that a disposition in the will should not be revoked by his marriage to that person.—
 - (a) that disposition shall take effect notwithstanding the marriage ; and
 - (b) any other disposition in the will shall take effect also, unless it appears from the will that the testator intended the disposition to be revoked by the marriage.”.
- (2) The following section shall be inserted after that section—

“18A Effect of dissolution or annulment of marriage on wills.

- (1) Where, after a testator has made a will, a decree of a court dissolves or annuls his marriage or declares it void.—
 - (a) the will shall take effect as if any appointment of the former spouse as an executor or as the executor and trustee of the will were omitted; and
 - (b) any devise or bequest to the former spouse shall lapse, except in so far as a contrary intention appears by the will.
- (2) Subsection (1)(b) above is without prejudice to any right of the former spouse to apply for financial provision under the Inheritance (Provision for Family and Dependants) Act 1975.
- (3) Where—
 - (a) by the terms of a will an interest in remainder is subject to a life interest; and
 - (b) the life interest lapses by virtue of subsection (1)(b) above,the interest in remainder shall be treated as if it had not been subject to the life interest and, if it was contingent upon the termination of the life interest, as if it had not been so contingent.”.

19 Gifts to children etc. who predecease testator

The following section shall be substituted for section 33 of the Wills Act 1837—

“33 Gifts to children or other issue who leave issue living at the testator's death shall not lapse.

- (1) Where—
 - (a) a will contains a devise or bequest to a child or remoter descendant of the testator ; and
 - (b) the intended beneficiary dies before the testator, leaving issue; and
 - (c) issue of the intended beneficiary are living at the testator's death,then, unless a contrary intention appears by the will, the devise or bequest shall take effect as a devise or bequest to the issue living at the testator's death.
- (2) Where—
 - (a) a will contains a devise or bequest to a class of persons consisting of children or remoter descendants of the testator ; and
 - (b) a member of the class dies before the testator, leaving issue; and
 - (c) issue of that member are living at the testator's death,then, unless a contrary intention appears by the will, the devise or bequest shall take effect as if the class included the issue of its deceased member living at the testator's death.
- (3) Issue shall take under this section through all degrees, according to their stock, in equal shares if more than one, any gift or share which their parent would have taken and so that no issue shall take whose parent is living at the testator's death and so capable of taking.
- (4) For the purposes of this section—
 - (a) the illegitimacy of any person is to be disregarded ; and
 - (b) a person conceived before the testator's death and born living thereafter is to be taken to have been living at the testator's death.”.