



Administration of Justice Act 1982

1982 CHAPTER 53

PART IV

WILLS

Registration of wills

PROSPECTIVE

23 Deposit and registration of wills of living persons.

- (1) The following, namely—
 - (a) the Principal Registry of the Family Division of the High Court of Justice;
 - (b) the Keeper of the Registers of Scotland; and
 - (c) the Probate and Matrimonial Office of the [Court of Judicature] of Northern Ireland,shall be registering authorities for the purposes of this section.
- (2) Each registering authority shall provide and maintain safe and convenient depositories for the custody of the wills of living persons.
- (3) Any person may deposit his will in such a depository in accordance with regulations under section 25 below and on payment of the prescribed fee.
- (4) It shall be the duty of a registering authority to register in accordance with regulations under section 25 below—
 - (a) any will deposited in a depository maintained by the authority; and
 - (b) any other will whose registration is requested under Article 6 of the Registration Convention.
- (5) A will deposited in a depository provided—
 - (a) under section 172 of the ^{M1}Supreme Court of Judicature (Consolidation) Act 1925 or section 126 of the ^{M2}[Senior Courts Act 1981]; or

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(b) under Article 27 of the ^{M3}Administration of Estates (Northern Ireland) Order 1979,

shall be treated for the purposes of this section as if it had been deposited under this section.

(6) In this section “prescribed” means—

- (a) in the application of this section to England and Wales, prescribed by an order under [^{F1}section 92 of the Courts Act 2003];
- (b) in its application to Scotland, prescribed by an order under section 26 below; and
- (c) in its application to Northern Ireland, prescribed by an order under section 116 of the ^{M4}Judicature (Northern Ireland) Act 1978.

Textual Amendments

F1 Words in s. 23(6)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110(1), **Sch. 8 para. 270**; S.I. 2005/910, **art. 3(y)**

Marginal Citations

M1 1925 c. 49.

M2 1981 c. 54.

M3 S.I. 1979 No. 1575 (N.I. 14)

M4 1978 c. 23.

PROSPECTIVE

24 Designation of Principal Registry as national body under Registration Convention.

- (1) The Principal Registry of the Family Division of the High Court of Justice shall be the national body for the purposes of the Registration Convention, and shall accordingly have the functions assigned to the national body by the Registration Convention including, without prejudice to the general application of the Convention to the Principal Registry by virtue of this section, the functions—
- (a) of arranging for the registration of wills in other Contracting States as provided for in Article 6 of the Convention;
 - (b) of receiving and answering requests for information arising from the national bodies of other Contracting States.
- (2) In this Part of this Act “the Registration Convention” means the Convention on the Establishment of a Scheme of Registration of Wills concluded at Basle on 16th May 1972.

PROSPECTIVE

25 Regulations as to deposit and registration of wills etc.

- (1) Regulations may make provision—

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- (a) as to the conditions for the deposit of a will;
 - (b) as to the manner of and procedure for—
 - (i) the deposit and registration of a will; and
 - (ii) the withdrawal of a will which has been deposited; and
 - (iii) the cancellation of the registration of a will; and
 - (c) as to the manner in which the Principal Registry of the Family Division is to perform its functions as the national body under the Registration Convention.
- (2) Regulations under this section may contain such incidental or supplementary provisions as the authority making the regulations considers appropriate.
- (3) Any such regulations are to be made—
- (a) for England and Wales, by the President of the Family Division of the High Court of Justice, with the concurrence of the Lord Chancellor;
 - (b) for Scotland, by the Secretary of State after consultation with the Lord President of the Court of Session; and
 - (c) for Northern Ireland, by the Northern Ireland ^[F2]Court of Judicature] Rules Committee, with the concurrence of the Lord Chancellor.
- (4) Regulations made by virtue of subsection (1)(c) above shall be made by the Lord Chancellor ^[F3]after consulting the Lord Chief Justice of England and Wales].
- (5) Subject to subsection (6) below, regulations under this section shall be made by statutory instrument and shall be laid before Parliament after being made.
- (6) Regulations for Northern Ireland shall be statutory rules for the purposes of the ^{M5}Statutory Rules (Northern Ireland) Order 1979; and any such statutory rule shall be laid before ^[F4]the Northern Ireland Assembly after being made].
- ^[F5](6A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a statutory rule as it applies in relation to the laying of a statutory document under an enactment.]
- (7) The ^{M6}Statutory Instruments Act 1946 shall apply to a statutory instrument containing regulations made in accordance with subsection (3)(a) ^{F6}. . . above as if the regulations had been made by a Minister of the Crown.
- (8) Any regulations made under section 172 of the ^{M7}Supreme Court of Judicature (Consolidation) Act 1925 or section 126 of the ^{M8}^[F7]Senior Courts Act 1981] shall have effect for the purposes of this Part of this Act as they have effect for the purposes of the enactment under which they were made.
- ^[F8](9) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (4).]

Textual Amendments

F2 Words in s. 25(3)(c) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), **Sch. 11 para. 27(2)**; S.I. 2009/1604, **art. 2(d)**

F3 Words in s. 25(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148(1), **Sch. 4 para. 148(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(q)

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- F4** Words in s. 25(6) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 32(a)** (with arts. 28-31)
- F5** S. 25(6A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 32(b)** (with arts. 28-31)
- F6** Words in s. 25(7) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 32(c)** (with arts. 28-31)
- F7** S. 25(8) for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2
- F8** S. 25(9) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148(1), **Sch. 4 para. 148(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(q)

Modifications etc. (not altering text)

- C1** S. 25(3)(c): functions transferred (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1), **Sch. 17 para. 9** (with arts. 28-31)

Marginal Citations

- M5** S.I. 1979 No. 1573 (N.I. 12)
- M6** 1946 c. 36.
- M7** 1925 c. 49.
- M8** 1981 c. 54.

26 Fees as to registration in Scotland.

The Secretary of State may, with the consent of the Treasury, from time to time by order made by statutory instrument fix fees payable in respect of—

- (a) the deposit, registration or withdrawal of wills under this Act;
- (b) the obtaining of information from the register; and
- (c) any other thing which the Keeper of the Registers of Scotland is required or authorised to do under this Act or any regulations made thereunder in connection with the depositing or registration of wills.

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Changes to legislation:

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