



Mental Health Act 1983

1983 CHAPTER 20

PART VII

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

97 Supplementary provisions as to wills executed under s. 96

- (1) Where under section 96(1) above the judge makes or gives an order, direction or authority requiring or authorising a person (in this section referred to as "the authorised person") to execute a will for a patient, any will executed in pursuance of that order, direction or authority shall be expressed to be signed by the patient acting by the authorised person, and shall be—
 - (a) signed by the authorised person with the name of the patient, and with his own name, in the presence of two or more witnesses present at the same time, and
 - (b) attested and subscribed by those witnesses in the presence of the authorised person, and
 - (c) sealed with the official seal of the Court of Protection.
- (2) The Wills Act 1837 shall have effect in relation to any such will as if it were signed by the patient by his own hand, except that in relation to any such will—
 - (a) section 9 of that Act (which makes provision as to the signing and attestation of wills) shall not apply, and
 - (b) in the subsequent provisions of that Act any reference to execution in the manner required by the previous provisions of that Act shall be construed as a reference to execution in the manner required by subsection (1) above.
- (3) Subject to the following provisions of this section, any such will executed in accordance with subsection (1) above shall have the same effect for all purposes as if the patient were capable of making a valid will and the will had been executed by him in the manner required by the Wills Act 1837.
- (4) So much of subsection (3) above as provides for such a will to have effect as if the patient were capable of making a valid will—

Status: This is the original version (as it was originally enacted).

- (a) shall not have effect in relation to such a will in so far as it disposes of any immovable property, other than immovable property in England or Wales, and
- (b) where at the time when such a will is executed the patient is domiciled in Scotland or Northern Ireland or in a country or territory outside the United Kingdom, shall not have effect in relation to that will in so far as it relates to any other property or matter, except any property or matter in respect of which, under the law of his domicile, any question of his testamentary capacity would fall to be determined in accordance with the law of England and Wales.