
Status: Point in time view as at 01/04/2018.

Changes to legislation: *Mental Capacity Act 2005, Cross Heading: Wills: effect of execution is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 2

PROPERTY AND AFFAIRS: SUPPLEMENTARY PROVISIONS

Wills: effect of execution

- 4 (1) This paragraph applies where a will is executed in accordance with paragraph 3.
- (2) The Wills Act 1837 (c. 26) has effect in relation to the will as if it were signed by P by his own hand, except that—
- (a) section 9 of the 1837 Act (requirements as to signing and attestation) does not apply, and
 - (b) in the subsequent provisions of the 1837 Act any reference to execution in the manner required by the previous provisions is to be read as a reference to execution in accordance with paragraph 3.
- (3) The will has the same effect for all purposes as if—
- (a) P had had the capacity to make a valid will, and
 - (b) the will had been executed by him in the manner required by the 1837 Act.
- (4) But sub-paragraph (3) does not have effect in relation to the will—
- (a) in so far as it disposes of immovable property outside England and Wales, or
 - (b) in so far as it relates to any other property or matter if, when the will is executed—
 - (i) P is domiciled outside England and Wales, and
 - (ii) the condition in sub-paragraph (5) is met.
- (5) The condition is that, under the law of P's domicile, any question of his testamentary capacity would fall to be determined in accordance with the law of a place outside England and Wales.

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