

THE STATUTES OF THE REPUBLIC OF SINGAPORE

WILLS ACT (CHAPTER 352)

**1936 Ed. Cap. 53
1955 Ed. Cap. 35
1970 Ed. Cap. 41
1985 Ed. Cap. 352
Indian Act
XXV of 1838**

Amended by
26 of 1921
21 of 1938
22 of 1949
2 of 1986
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Wills Act

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An Act to declare the law relating to wills.

[8th October 1838]

Short title.

1. This Act may be cited as the Wills Act.

Inter-
pretation.
24/92.

2. In this Act, unless the context otherwise requires —

“internal law”, in relation to any territory or state, means the law which would apply in a case where no question of the law in force in any other territory or state arose;

“personal estate” shall extend to leasehold estates and other chattels real, and also to moneys, shares of Government and other funds, securities for money, not being real estates, debts, choses in action, rights, credits, goods and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein;

“real estate” shall extend to messuages, lands, rents and hereditaments, whether corporeal, incorporeal or personal, and to any undivided share thereof and to any estate, right or interest, other than a chattel interest, therein;

“state” means a territory or group of territories having its own law of nationality;

“will” includes a testament and an appointment by will or by writing in the nature of a will in exercise of a power and also a disposition by will and testament or devise of the custody and tuition of any child by virtue of the Tenures Abolition Act 1660 and any other testamentary disposition.

3.—(1) Subject to the provisions of this Act, every person may devise, bequeath or dispose of by his will, executed in the manner required under this Act, all real estate and all personal estate which he shall be entitled to either at law or in equity at the time of his death.

Property
disposable
by will.

(2) The power given under subsection (1) shall extend to —

- (a) all estates pur autre vie, whether there shall or shall not be any special occupant thereof, whether the same shall be a corporeal or an incorporeal hereditament, and whether the same shall be freehold or of any other tenure;
- (b) all contingent, executory or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created or under any disposition thereof by deed or will;
- (c) all rights of entry for conditions broken and other rights of entry; and
- (d) such of the same estates, interests and rights respectively and other real and personal estates as the testator may be entitled to at the time of his death notwithstanding that he may become entitled to the same subsequently to the execution of his will.

4. No will made by any person under the age of 21 years shall be valid.

Will of infant
invalid.

5.—(1) This section shall take effect notwithstanding any other provisions of this Act.

Rules as to
formal
validity.
24/92.

(2) A will shall be treated as properly executed if its execution conformed to the internal law in force —

24/92.

- (a) in the territory where it was executed;

- (b) in the territory where the testator was domiciled at the time —
 - (i) when the will was executed; or
 - (ii) of his death;
- (c) in the territory where the testator habitually resided at either of the times referred to in paragraph (b); or
- (d) in the state of which the testator was a national at either of the times referred to in paragraph (b).

24/92.

(3) Without prejudice to subsection (2), the following shall be treated as properly executed:

- (a) a will executed on board a vessel or an aircraft of any description, if the execution of the will conformed to the internal law in force in the territory with which, having regard to its registration (if any) and other relevant circumstances, the vessel or aircraft may be taken to have been most closely connected;
- (b) a will so far as it disposes of immovable property, if its execution conformed to the internal law in force in the territory where the property was situated;
- (c) a will so far as it revokes a will which under this Act would be treated as properly executed or revokes a provision which under this Act would be treated as comprised in a properly executed will, if the execution of the later will conformed to any law by reference to which the revoked will or provision would be treated as properly executed;
- (d) a will so far as it exercises a power of appointment, if the execution of the will conformed to the law governing the essential validity of the power.

24/92.

(4) A will so far as it exercises a power of appointment shall not be treated as improperly executed by reason only that its execution was not in accordance with any formal requirements contained in the instrument creating the power.

(5) In determining for the purposes of this section ^{24/92.} whether or not the execution of a will conformed to a particular law, regard shall be had to the formal requirements of that law at the time of execution, but this shall not prevent account being taken of an alteration of law affecting wills executed at that time if the alteration enables the will to be treated as properly executed.

(6) Where a law in force outside Singapore falls to be ^{24/92.} applied in relation to a will, any requirement of that law whereby special formalities are to be observed by testators answering a particular description, or witnesses to the execution of a will are to possess certain qualifications, shall be treated, notwithstanding any rule of that law to the contrary, as a formal requirement only.

(7) The construction of a will shall not be altered by ^{24/92.} reason of any change in the testator's domicile after the execution of the will.

(8) Where under this section the internal law in force in ^{24/92.} any territory or state is to be applied in the case of a will, but there are in force in that territory or state two or more systems of internal law relating to the formal validity of wills, the system to be applied shall be ascertained as follows:

- (a) if there is in force throughout the territory or state a rule indicating which of those systems can properly be applied in the case in question, that rule shall be followed; or
- (b) if there is no such rule, the system shall be that with which the testator was most closely connected at the relevant time, and for this purpose the relevant time is the time of the testator's death where the matter is to be determined by reference to circumstances prevailing at his death, and the time of execution of the will in any other case.

(9) This section shall not apply to a will of a testator who ^{24/92.} died before 26th June 1992 and shall apply to a will of a testator who dies after that date whether the will was executed before or after that date. [4A

Mode of
execution.

6.—(1) No will shall be valid unless it is in writing and executed in the manner mentioned in subsection (2).

(2) Every will shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and the signature shall be made or acknowledged by the testator as the signature to his will or codicil in the presence of two or more witnesses present at the same time, and those witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

21/38.

(3) Every will shall, as far only as regards the position of the signature of the testator, or of the person signing for him as mentioned in subsection (2), be deemed to be valid under this section if the signature shall be so placed at or after, or following, or under, or beside, or opposite to the end of the will, that it shall be apparent on the face of the will that the testator intended to give effect by such his signature to the writing signed as his will; and no such will shall be affected by the circumstance —

- (a) that the signature shall not follow or be immediately after the foot or end of the will;
- (b) that a blank space shall intervene between the concluding word of the will and the signature;
- (c) that the signature shall be placed among the words of the testimonium clause or of the clause of attestation, or shall follow or be after or under the clause of attestation, either with or without a blank space intervening, or shall follow or be after, or under, or beside the names or one of the names of the subscribing witnesses;
- (d) that the signature shall be on a side or page or other portion of the paper or papers containing the will whereon no clause or paragraph or disposing part of the will shall be written above the signature; or
- (e) that there shall appear to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature.

(4) The enumeration of the circumstances under subsection (3) shall not restrict the generality of that subsection; but no signature under this Act shall be operative to give effect to any disposition or direction which is underneath or which follows it, nor shall it give effect to any disposition or direction inserted after the signature shall be made. [5]

7.—(1) No appointment made by will, in exercise of any power, shall be valid, unless the will is executed in the manner required by this Act. Execution of appointment by will.

(2) Every will executed in the manner required by this Act shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding that it shall have been expressly required that a will made in exercise of that power should be executed with some additional or other form of execution or solemnity. [6]

8. Every will executed in the manner required by this Act shall be valid without any other publication thereof. [7] Publication of will not necessary.

9. If any person who attests the execution of a will shall, at the time of the execution thereof or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, the will shall not on that account be invalid. [8] Will not to be invalidated by reason of incompetency of attesting witness.

10.—(1) If any person attests the execution of any will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate, other than and except charges and directions for the payment of any debt, shall be thereby given or made, the devise, legacy, estate, interest, gift or appointment shall, so far only as concerns the person attesting the execution of the will, or the wife or husband of that person, or any person claiming under that person or wife or husband, be utterly null and void. Gifts to attesting witness or to wife or husband of attesting witness to be void. 24/92.

(2) The attesting witness referred to in subsection (1) shall be admitted as a witness to prove the execution of the will or to prove the validity or invalidity thereof, notwithstanding the devise, legacy, estate, interest, gift or appointment mentioned in the will.

24/92. (3) The attestation of a will by a person to whom or to whose spouse there is given or made any disposition as is described in subsection (1) shall be disregarded for the purposes of that subsection if the will is duly executed without his attestation and without that of any other such person.

24/92. (4) Subsection (3) shall apply to the will of any person dying after the passing of the Wills (Amendment) Act 1992, whether executed before or after the passing of that Act.

[9]

Creditor attesting a will charging estate with debts to be admitted a witness.

11. In case by any will any real or personal estate shall be charged with any debt, and any creditor, or the wife or husband of any creditor, whose debt is so charged, shall attest the execution of the will, the creditor notwithstanding the charge shall be admitted a witness to prove the execution of the will or to prove the validity or invalidity thereof.

[10]

Executor not incompetent to be witness.

12. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of the will or to prove the validity or invalidity thereof.

[11]

Will to be revoked by marriage except in certain cases.

13.—(1) Every will made by a man or woman shall be revoked by his or her marriage, except a will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir, executor or administrator or the person entitled under the Intestate Succession Act.

Cap. 146.

21/38. (2) Notwithstanding subsection (1), where a will made on or after 29th August 1938 is expressed to be made in contemplation of a marriage, the will shall not be revoked by the solemnization of the marriage contemplated; and this subsection shall apply notwithstanding that the marriage contemplated may be the first, second or subsequent marriage of a person lawfully practising polygamy.

[12]

14. No will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances. [13]

No will to be revoked by presumption from altered circumstances.

15. No will or codicil, or any part thereof, shall be revoked otherwise than —

Revocation of will or codicil.

(a) as provided in section 13;

(b) by another will or codicil executed in the manner by this Act required;

(c) by some writing declaring an intention to revoke it, and executed in the manner in which a will is by this Act required to be executed; or

(d) by the burning, tearing, or otherwise destroying the will by the testator, or by some person in his presence and by his direction, with the intention of revoking it. [14]

16.—(1) No obliteration, interlineation or other alteration made in any will after the execution thereof shall be valid or have any effect except so far as the words or effect of the will before such alteration shall not be apparent, unless the alteration shall be executed in the like manner as by this Act is required for the execution of the will.

Effect of obliteration, interlineation or alteration. 22/49.

(2) A will referred to in subsection (1), with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to the alteration or at the foot or end of or opposite to a memorandum referring to the alteration and written at the end or some other part of the will. [15]

17.—(1) No will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in the manner required by this Act and showing an intention to revive the will or codicil.

Revival of revoked will.

(2) When any will or codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived,

the revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown. [16]

Subsequent conveyance or other acts not to prevent operation of will.

18. No conveyance or other act made or done subsequently to the execution of a will of or relating to any real or personal estate therein comprised, except an act by which the will shall be revoked as aforesaid, shall prevent the operation of the will with respect to the estate or interest in the real or personal estate as the testator shall have power to dispose of by will at the time of his death. [17]

Will to be construed to speak from death of testator.

19. Every will shall be construed with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will. [18]

Residuary devise to include estates comprised in lapsed and void devises.

20. Unless a contrary intention appears by the will, such real estate and interest therein as is comprised or intended to be comprised in any devise in the will contained, which fails or is void by reason of the death of the devisee in the lifetime of the testator or by reason of the devise being contrary to law or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in the will. [19]

General gift of realty and of personality to include property over which testator has general power of appointment.

21.—(1) A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which that description shall extend, as the case may be, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of that power, unless a contrary intention shall appear by the will.

(2) A bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which that description shall extend, as the case may be, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of that power, unless a contrary intention shall appear by the will. [20]

22. Where any real estate shall be devised to any person without any words of limitation, the devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in the real estate unless a contrary intention shall appear by the will. [21]

Devise without words of limitation.

23.—(1) In any devise or bequest of real or personal estate, the words “die without issue” or “die without leaving issue”, or any other words which may import either a want or failure of issue of any person in his lifetime or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of that person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will.

Construction of words importing want or failure of issue.

(2) This Act shall not extend to cases where those words referred to in subsection (1) import if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. [22]

24. Where any real estate shall be devised to any trustee or executor, the devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in the real estate, unless a definite term of years, absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication. [23]

Devise of real estate to trustee or executor.

25. Where any real estate shall be devised to a trustee, without any express limitation of the estate to be taken by the trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or the beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of that person, the devise shall be construed to vest in the trustee the fee simple, or other the whole legal estate which the testator had power to dispose of by will in the real estate, and not an estate determinable when the purposes of the trust shall be satisfied. [24]

Devise of real estate to trustee without limitation.

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

26. Where any person being a child or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of that person shall die in the lifetime of the testator leaving issue, and any such issue of that person shall be living at the time of the death of the testator, that devise or bequest shall not lapse, but shall take effect as if the death of that person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will. [25

Saving as to wills of soldiers and mariners. 21/38.

27.—(1) Notwithstanding anything in this Act, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act and may do so even though under the age of 21 years.

Validity of testamentary dispositions of real property made by soldiers and sailors. 21/38.

(2) A testamentary disposition of any real estate made by a person to whom this section applies, and who dies after 29th August 1938 shall, notwithstanding that the person making the disposition was at the time of making it under 21 years of age or that the disposition has not been made in such manner or form as was on 29th August 1938 required by law, be valid in any case where the person making the disposition was of such age and the disposition has been made in such manner and form that if the disposition had been a disposition of personal estate made by that person it would have been valid.

Power to appoint testamentary guardians. 21/38.

(3) Where any person dies after 29th August 1938 having made a will which is, or which, if it had been a disposition of property, would have been rendered valid by this section, any appointment contained in that will of any person as guardian of the infant children of the testator shall be of full force and effect.

Section to extend to naval, marine and air forces. 21/38.

(4) This section shall extend to any member of any naval or marine forces not only when he is at sea but also when he is so circumstanced that if he were a soldier he would be in actual military service within the meaning of this section.

21/38.

(5) For the purposes of this section, "soldier" includes a member of an air force. [26

LEGISLATIVE HISTORY

WILLS ACT (CHAPTER 352)

1. Ordinance XXV of 1838 — Wills Ordinance 1838 (Indian Act)

Dates of First, Second and Third Readings : Dates not available
Date of commencement : 8.10.38

**2. Ordinance 26 of 1921 — Statute Laws (Revised Edition) Operation
Ordinance 1921**

Dates of First, Second and Third Readings : Dates not available
(Bill published on
19.11.21)
Date of commencement : 28.11.21

3. Ordinance 21 of 1938 — Wills (Amendment) Ordinance 1938

Date of First Reading : 13.6.38 (Bill published
on 17.6.38)
Date of Second and Third Readings : 29.8.38
Date of commencement : 16.9.38

4. Ordinance 22 of 1949 — Wills (Amendment) Ordinance 1949

Date of First Reading : 17.5.49 (Bill published
on 20.5.49)
Date of Second and Third Readings : 21.6.49
Date of commencement : 1.7.49

5. Act 2 of 1986 — Statute Law Revision Act 1986

Date of First Reading : 31.10.85 (Bill No. 12/85
published on 8.11.85)
Date of Second and Third Readings : 10.1.86
Date of commencement : 31.1.86

6. Act 24 of 1992 — Wills (Amendment) Act 1992

Date of First Reading : 27.2.92 (Bill No. 11/92
published on 28.2.92)
Date of Second and Third Readings : 29.5.92
Date of commencement : 26.6.92