

WILLS AND SUCCESSION.

20 OF 1895.

TO AMEND THE LAW RELATING TO WILLS AND TO TESTAMENTARY
AND INTESTATE SUCCESSION.

[June 29, 1895.]

PART 1.

GENERAL.

1. This Law may be cited as the Wills and Succession Law, 1895. Short title.

2. In this Law the following words and expressions bear the following meanings:—

“Property” means movable property and immovable property as hereinafter defined;

“Movable property” includes all property, other than immovable property as hereinafter defined, and also includes any standing or growing crops or produce, though not severed from the soil or tree;

“Immovable property” means immovable property situate in Cyprus of the following categories:—

(1.) Mulk.

(2.) Vakouf property held as Ijarétein, where there are heirs upon whom the property would devolve.

“Heir” means a person who by operation of Law succeeds to the property of a deceased person;

“Will” means the legal declaration in writing of the intentions of the testator with respect to the disposal of his property after his death, and includes Codicil;

“Codicil” means an instrument in writing made in relation to a will, explaining, adding to, altering or revoking, in whole or in part, its disposition. It shall be considered as forming an additional part of the will.

“Executor” means a person to whom the execution of the last will of a deceased person is confided by the appointment of the testator;

“Legacy” means a gift of property by will;

“Legatee” means one who has a legacy left to him;

- “ Administrator ” means a person to whom a competent Court has granted letters of administration, for the purpose of administering the property of a deceased person who has died intestate, or has left a will without having appointed an executor, or has appointed an executor who has renounced or become incapable of acting;
- “ Probate ” means an instrument in writing issuing out of a Court, declaring that the will of a person has been duly proved and that administration of his property has been granted to an executor or executors named therein;
- “ Letters of Administration ” mean the written authority given to an administrator by a competent Court to administer the property of a deceased person who has died intestate;
- “ Letters of Administration with Will annexed ” mean the written authority given to an administrator by a competent Court to administer the property of a deceased person who has left a will without having appointed an executor, or has appointed an executor who has renounced probate or become incapable of acting;
- “ Court ” means the District Court (or a Judge thereof) of the District in which the deceased had his usual place of residence or in which he died.

Succession either testamentary or *ab intestato*.

Succession to property how regulated.

3. Succession to the property of a deceased person may be either by will or by the operation of Law.

4.—(1.) This Law shall regulate—

- (a.) The succession to property of all persons domiciled in Cyprus;
- (b.) The succession to immovable property of any person not domiciled in Cyprus.

(2.) No person shall be held to have acquired a domicile in Cyprus by reason only of his residing there in Her Majesty's Civil or Military service or in the exercise of any profession or calling.

Succession to movable property of persons not domiciled in Cyprus.

5. The succession to movable property of persons dying in Cyprus but not domiciled there shall be regulated by the Law of the country in which they had their domicile at the time of their decease.

One domicile only affects succession to movables.

6. A person can have only one domicile for the purpose of succession to his movable property.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or if he is a posthumous child, in the country in which his father was domiciled at the time of his father's death.

Domicile of origin.

The domicile of origin of an illegitimate child is in the country in which at the time of his birth his mother was domiciled.

For the purposes of this Law Cyprus shall be deemed to be a country.

8. The domicile of origin prevails until a new domicile has been acquired.

Continuance of domicile of origin.

9. A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Acquisition of new domicile

10. In cases of dispute as to which of two or more persons deceased died first, the party asserting the priority of the death of one of them must give proofs of his assertion. In the absence of proof the Law shall presume that they died at the same moment.

Priority of decease.

11. A posthumous child shall have the same right of succession as if he had been born before the death of the person from whom the succession is derived.

Posthumous children.

12. No one shall be incapable of succeeding to any property by reason of his being of a different nationality from that of the person from whom the succession is derived.

Nationality no bar to succession.

13. No person shall be capable of succeeding to any property who has been convicted of killing with premeditation, or of attempting to kill with premeditation, the person to whose property he would otherwise have succeeded, or who has been convicted of killing with premeditation, or of attempting to kill with premeditation, the child, parent, husband, or wife of the person to whose property he would otherwise have succeeded.

Incapacity to succeed through crime.

14. A person shall be incapable of succeeding to any property who has by fraud or any undue influence caused the person to whose property he would otherwise have succeeded to make a will or to revoke a will already made, or who has prevented him by fraud or any undue influence from making a will or altering a will, or who has submitted to him a supposititious will, or has wrongfully altered or destroyed a will already made by him, or has aided and abetted any person in any of these acts.

Incapacity to succeed where fraud or undue influence.

Incapacity
how condoned.

15. The incapacity to succeed to the property of a deceased person, mentioned in sections 13 and 14, shall be annulled and removed if the deceased has voluntarily and in express terms pardoned the otherwise incapacitated person, by instrument in writing or by will.

No bar to
successors of
persons
incapacitated.

16. The descendants of an incapacitated person, who but for his incapacity would be entitled to succeed by operation of Law to any property, shall be entitled to succeed to the property in the same manner as if the incapacitated person had died in the lifetime of the intestate; but the person incapacitated upon whose descendants the property devolves shall be barred from any subsequent right of enjoyment thereof accorded to him by the Law.

Limitation of
actions to
establish
incapacity.

17. All actions whereby any property is claimed on the ground of the incapacity of an heir shall be commenced before the lapse of five years from the date when the inheritance accrued to him.

Vesting of
rights, etc., of
property of
deceased.

18. From and after the grant of probate or letters of administration, whether with will annexed or otherwise, or if no such grant is made, the rights and liabilities attaching to the property of a deceased person are vested in and devolve upon the executor or administrator, as the case may be, until the property is administered; and from and after the administration of the property they are vested in and devolve upon the persons legally entitled.

PART 2.

WILLS.

Power to
dispose by
will of
property.

19. Every person who is of sound mind and who has completed the eighteenth year of his age may, subject to the provisions of this Law, dispose by will of a part or the whole of the property of which he dies possessed, according to the following rules; and the part of the property which he may so dispose of is hereinafter termed the "disposable portion," to distinguish it from that part of his property which he may not so dispose of, or has not so disposed of, which is hereinafter termed the "legal portion."

Where a person dies leaving:—

- (1.) A spouse and child, or descendant thereof, the disposable portion shall not exceed one-third of the net value of the property of which he died possessed;
- (2.) A child or descendant thereof, but no spouse, the disposable portion shall not exceed one-half of the net value of the property of which he died possessed;

(3.) A spouse, but no child nor descendant thereof, the disposable portion shall not exceed two-thirds of the net value of the property of which he died possessed;

(4.) Neither spouse, nor child, nor descendant thereof, the disposable portion is the whole of the property of which he died possessed.

Where a person has purported to dispose by will of a larger share of his property than he was entitled to dispose of under the above rules, such disposition or dispositions shall be reduced and abated proportionately, so as to conform to the said rules.

19A → 20. A testator shall have the power, in disposing of the whole or any portion of his property by will, to make provision therein for the substitution of any heir or legatee for any heir or legatee mentioned in his will.

Add 19A from Law 2/1935
Substitution of heirs, etc.

21. A father or mother may by will appoint a guardian or guardians for his or her child during minority.

Guardians may be appointed by will.

22. A will shall be made as follows:—

Requisites of will.

(1.) It shall be in writing.

(2.) It shall be signed at the end thereof by the testator, or by some other person on his behalf, in his presence and by his direction.

(3.) The signature of the testator shall be made or acknowledged by him in the presence of three or more witnesses present at the same time.

(4.) The witnesses shall subscribe their names to the will in the presence of the testator and in the presence of each other, attesting respectively that it was signed by or on behalf of the testator in their presence and that they subscribed it at his request and in his presence.

(5.) When the will consists of more than one sheet of paper, each sheet shall be signed or initialled by or on behalf of the testator and by the witnesses.

A will may follow the form in Schedule A.

The attestation clause used for the execution of every will shall be as follows or to the like effect:—