CHAPTER 340
WILLS ACT

• Act • Subsidiary Legislation •

ACT

Amended by

Act No. 14 of 2011

ARRANGEMENT OF SECTIONS

CHAPTER 340
WILLS ACT

An Act respecting wills.

[Amended by Act No. 14 of 2011.]

[27*th October*, 1874.]

1. Short title

This Act may be cited as the Wills Act.

2. Meaning of "will"

In this Act, "will" extends to a testament and to a codicil and to an appointment by will or by writing in the nature of a will in exercise of a power.

3. All property may be disposed of by will

It shall be lawful for every person to devise, bequeath, or dispose of by his or her will, executed in manner hereinafter required, all real estate and all personal estate which he or she shall be entitled to at the time of his or her death, and which, if not so devised, bequeathed or disposed of, would devolve upon the heir at law of him or her, or (if he or she became entitled by descent) of his or her ancestor, or upon his or her executor or administrator; and the power hereby given shall extend to estates *pur autre vie*, whether there is or is not any special occupant thereof, and whether they are freehold or of any other tenure, and whether they are a corporeal or incorporeal hereditament; and also to 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 may become vested, and whether he or she may be entitled thereto under the instrument by which the same were created or under any disposition thereof by deed or will; and also to all rights of entry for conditions broken and other rights of entry; and also to such of the same estates, interests, and rights and other real and personal estate as the testator may be entitled to at the time of his or her death, notwithstanding that he or she may become entitled to the same subsequently to the execution of his or her will.

4. Estates *pur autre vie*

If no disposition by will is made of any estate *pur autre vie* of a freehold nature the same shall be chargeable in the hands of the heir if it comes to him or her by reason of special occupancy as assets by descent, as in the case of freehold land in fee simple; and in case there shall be no special occupant of any estate *pur autre vie*, whether freehold or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the executor or administrator of the party that had the estate thereof by virtue of the grant; and if the same shall come to the executor or administrator either by reason of a special occupancy, or by virtue of this Act, it shall be assets in his or her hands and shall go and be applied and distributed in the same manner as the personal estate of the testator or intestate.

5. No will of a minor valid

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

6. When signature to a will shall be deemed valid

No will hereafter made shall be valid unless it is in writing, and signed in the manner hereinafter required by the testator or by some other person in his or her presence and by his or her direction; and unless the signature is made or acknowledged by him or her in the presence of two or more witnesses present at the same time, who shall attest and subscribe the will in his or her presence; but no form of attestation shall be necessary. The testator's 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 or her signature to the writing signed as his or her will; and no such will shall be affected by the circumstance that the signature shall not

follow or be immediately after the foot or end of the will, or by the circumstance that a blank space shall intervene between the concluding word of the will and the signature, or by the circumstance 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, or by the circumstance that the signature shall be on a side or page or other portion of the paper or papers containing the will, whereupon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears 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. The enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature 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 was made.

7. Appointments by will to be executed like other wills

No appointment made by will in exercise of any power shall be valid unless the same is executed in manner hereinbefore required, and every will executed in manner hereinbefore required shall so far as respects the execution and attestation thereof be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of the power should be executed with some additional or other form of execution or solemnity.

8. Publication not to be requisite

Every will executed in manner hereinbefore required shall be valid without any other publication thereof.

9. Will not void by incompetency of witness

If any person who attests the execution of a will shall at the time of 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.

10. Gifts to an attesting witness to be void

If any person shall attest 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 or debts) is thereby given or made, such 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 such person, or any person claiming under such person or wife or husband, be utterly null and void, but the person so attesting 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.

11. Creditor attesting to be admitted a witness

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

12. Executor to be admitted a witness