
Fifth Session First Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 27 of 1981

AN ACT relating to the law of succession.

[Assented to 30th July, 1981]

ENACTED by the Parliament of Trinidad and Tobago as ^{Enactment} follows:—

1. (1) This Act may be cited as the Succession Act, ^{Short title} 1981.

(2) This Act except for section 122 shall come into operation on a date to be fixed by the President by Proclamation published in the *Gazette*.

PART I

INTERPRETATION

2. (1) In this Act—

“administration” means, in relation to the estate of a deceased person, letters of administration, whether general or limited, or with the Will annexed or otherwise;

“administrator” means a person to whom administration is granted;

“Administrator General” means the person appointed under section 29;

“common form business” means the business of obtaining probate and administration where there is no contention as to the right thereto, including the granting of probates and administrations in contentious cases when the contest is terminated, and all business of a non-contentious nature to be taken in court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration;

“conveyance” includes any instrument, other than a Will, consisting of or comprising a transfer, mortgage or other charge, lease, assent, vesting declaration, disclaimer, release or other assurance of property or of an interest therein; and “convey” has a corresponding meaning;

“Court” means the High Court;

“death duties” includes any duty payable on the value of the estate of a deceased person;

“grant” means a grant of representation;

“intestate”, when used as a noun, means a person who leaves no Will or leaves a Will but leaves undisposed of some beneficial interest in his estate;

“land” means the surface of the earth, the airspace above it and the things, other than chattels, below it, and includes—

- (a) buildings on land and parts of buildings whether the division is vertical, horizontal, or made in any other way;
- (b) mines and minerals, whether or not held apart from the surface;
- (c) land covered by water;
- (d) legal estates in land, whether or not they give a right to possession of the soil;
- (e) equitable interests in land;

“leasehold term” has the meaning assigned by section 5 of the Land Law and Conveyancing Act, 1981;

“mortgage” includes any charge or lien on any property for securing money or money’s worth;

“pecuniary legacy” includes an annuity, a general legacy, a demonstrative legacy so far as it is not discharged out of the designated property, and any other general direction by a testator for the payment of money;

“personal chattels” means carriages, horses, stable furniture and effects, motor cars and accessories, garden effects, domestic animals, plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use, or of ornament, musical and scientific instruments and apparatus, wines, liquors and consumable stores, but does not include any chattels used at the death of the intestate for business or professional purposes nor money or security for money;

“personal representative” means the executor or the administrator for the time being of a deceased person, and includes the Administrator General;

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“Public Trustee” has the meaning assigned by section 2 of the Trustee Act, 1981;

“real estate” includes chattels real, and land in possession, remainder or reversion, and every estate or interest in or over land (including real estate held on trust or by way of mortgage or security, but not money to arise under a trust for sale of land, nor money secured or charged on land) to which a deceased person was entitled at the time of his death;

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“registered land” has the meaning assigned by section 2 of the Land Registration Act, 1981;

“Registrar” means the registrar of the Supreme Court and includes any Deputy or Assistant Registrar thereof;

“representation” means probate or administration;

“trust corporation” means the Public Trustee and a trust corporation as defined by section 2 of the Trustee Act, 1981;

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“unregistered land” has the meaning assigned by section 2 of the Land Registration Act, 1981.

(2) Subject to section 88(2), in all cases where, after the commencement of this Act, two or more persons have died—

(a) simultaneously; or

(b) in circumstances rendering it uncertain which of them survived the other or others;

for all purposes affecting the title to property such deaths are (unless the court orders otherwise) presumed to have occurred in order of seniority, the younger being presumed to have survived the elder.

(3) Reference to a "spouse" includes;

- (a) a single woman who has been living together with a single man as his wife for a period of not less than five years immediately preceding the date of his death;
- (b) a single man who has been living together with a single woman as her husband for a period of not less than five years immediately preceding the date of her death;

and for these purposes a reference to a single woman or a single man includes a reference to a widow or widower or to a woman or man who is divorced, but only one such relationship as is referred to in paragraph (a) or (b) shall be taken into account for the purposes of this Act.

(4) References to a child or issue living at the death of any person include a child or issue *en ventre sa mère* at the death and a child in respect of whom an adoption order has been made under the Adoption of Children Ordinance. Ch. 29. No. 7

(5) The estate or interest of a deceased person under a joint tenancy, where any tenant survives the deceased person, is an estate or interest ceasing on his death.

PART II

WILLS

3. (1) Subject to this Part, every person may dispose, Property disposable by Will by will executed in accordance with this Part, of all property owned by him at the time of his death, and which, if not disposed of, would fall within his estate to be distributed in accordance with Part VII.

(2) For the removal of doubt, it is hereby declared that (without prejudice to the rights and interests of a personal representative) any person may dispose of land by Will notwithstanding that by reason of not being born in wedlock or otherwise he did not leave an heir or next of kin surviving him.

Capacity to make
a Will

4. To be valid a Will shall be made by a person who—
- (a) has attained the age of eighteen years or is or has been married; and
 - (b) is of sound disposing mind.

Formalities for
execution

5. (1) Subject to section 6, no Will is valid unless it is—

- (a) in writing; and
- (b) signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, in accordance with subsection (2).

(2) The signature of the testator or other person mentioned in paragraph (b) or subsection (1) is effective—

- (a) only if made or acknowledged by the testator in the presence of two or more witnesses present at the same time, such witnesses attesting and subscribing the Will in the presence of the testator;
- (b) so far as its position is concerned, if it satisfies subsection (4).

(3) No particular form of attestation is necessary, nor is it necessary for the witnesses to sign in the presence of each other, nor is publication of the Will necessary.

(4) So far as regards the position of the signature of the testator, or of the person signing for him—

- (a) a Will is valid if the signature is so placed at, after, following, under, beside or opposite the end of the Will that it is apparent on the face of the Will that the testator intended to give effect, by such signature, to the writing signed as his Will;
- (b) no Will is affected by the circumstances that—

- (i) the signature does not follow, or is not immediately after, the foot or end of the Will; or

- (ii) a blank space intervenes between the concluding word of the Will and the signature; or
- (iii) the signature is placed among the words of the testimonium clause or of the clause of attestation, or follows or is after or under the clause of attestation, either with or without a blank space intervening, or follows or is after, under or beside the names or one of the names of the subscribing witnesses; or
- (iv) the signature is on a side, page or other portion of the paper or papers containing the Will whereon no clause or paragraph or disposing part of the Will is written above the signature; or
- (v) there appears to be sufficient space to contain the signature on or at the bottom of the preceding side, page or other portion of the same paper on which the Will is written;

and the enumeration of the above circumstances does not restrict the generality of this subsection; but no signature under this section operates to give effect to any disposition or direction which is underneath or follows it, nor does it give effect to any disposition or direction inserted after the signature is made.

(5) No person is a competent witness to the execution of a Will if he attests the Will in any manner other than by signing his name in his own handwriting.

6. (1) The Minister may make regulations governing the validity and recognition of Will and other testamentary dispositions with a foreign element or executed on board a vessel or aircraft or which, for any other reason, may not comply with the law of the State.

Wills with foreign
element

(2) In making regulations under subsection (1), the Minister may have regard to any convention providing a uniform law on the form of an international Will or otherwise dealing with the conflict of laws relating to testamentary dispositions.

Testamentary
execution of power

7. (1) No appointment made by Will, in the exercise of any power, is valid unless it is executed in accordance with section 5 or 6.

(2) Subsection (1) applies notwithstanding anything to the contrary in the instrument creating the power.

(3) A will executed in accordance with section 5 or 6 is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by Will, notwithstanding that the instrument creating the power expressly requires that a Will made in exercise of such power should be executed with some additional or other form of execution or formality.

Incompetency of
witness

8. Subject to section 5(5), if any person who attests the execution of a Will is, at the time of the execution, or becomes, at any time afterwards, incompetent as a witness to prove the execution, the Will is not invalid on that account.

Gift to witness

9. (1) Subject to subsection (2), if a person who attests the execution of a Will is a person to whom any interest is given by the will (whether by way of gift or by way of exercise of a power of appointment, but other than and except charges and directions for the payment of debts), the gift or appointment is void, so far as it concerns such an attesting witness or any person claiming under the witness; but the attesting witness is competent as a witness to prove the execution, or to prove the validity or invalidity of the Will, notwithstanding the gift or appointment mentioned in the Will.

(2) Attestation of a will by a person to whom there is given or made any such disposition as is described in subsection (1) shall be disregarded if the Will is duly executed without his attestation and without that of any other such person or if the attesting witness is the testator's spouse.