

## CHAPTER 148.

## WILLS.

[No. XII of 1906.]

[3rd October, 1906.]

1. This Ordinance may be cited as the Wills Ordinance. Short title.

2. In this Ordinance, except where the context otherwise requires, the word "will" includes a testamentary disposition, a codicil, and an appointment by will or by writing in the nature of a will in the exercise of a power. Interpretation of "will."

3. From and after the commencement of this Ordinance no notarial will shall be made in the colony, or, except as hereinafter provided, shall be valid or effectual for any purpose whatsoever: Abolition of notarial will:

Provided that nothing in this Ordinance shall affect the validity of any notarial will duly made before the commencement of this Ordinance and not subsequently revoked, and that will shall be as valid and effectual for all purposes as if this Ordinance had not passed. Proviso.

4. No will made in the colony shall be valid unless it is in writing and executed in manner hereinafter mentioned; that is to say, it 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 in the presence of two or more witnesses present at the same time, and those witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary. Rules as to execution and attestation of wills.

5.—(1) Every will shall, so far only as regards the position of the signature of the testator or of the person signing for him, be deemed to be valid within the preceding section if the signature is so placed at or after, or following, or under, or beside, or opposite to, the end of the will, that it is apparent on the face of the will that the testator intended What signatures to a will are to be deemed to be valid.



to give effect by that signature to the writing signed as his will.

(2) No will shall be affected by the circumstance—

(a) that the signature—

- (i) does not follow or is not immediately after the foot or end of the will; or
- (ii) is placed among the words of the attestation clause or follows, or is after or under, the attestation clause, either with or without a blank-space intervening, or follows, or is under or beside, the names or one of the names of the subscribing witness; or
- (iii) is 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 is written above the signature; or

(b) that a blank space intervenes between the concluding word of the will and the signature; or

(c) 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;

and the enumeration of the above circumstances shall not restrict the generality of this enactment, but no signature under this Ordinance shall be operative to give effect to any disposition or direction which is underneath it or which follows it, nor shall it give effect to any disposition or direction inserted after the signature is made.

Who are competent to attest execution of a will.

6. Everyone, save as hereinafter excepted, above the age of fourteen years, competent to give evidence in any court of law in the colony, shall be competent and qualified to attest the execution of a will.

Persons attesting execution of a will to forfeit any interest they may have conferred upon them in the will.

7. If anyone attests the execution of a will to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment, of or affecting any property (other than and except charges and directions for the payment of any debt or debts), is thereby given or made, that devise, or legacy, estate, interest, gift, or appointment, shall, so far only as concerns the person attesting the execution of that will, or the wife or husband of that person, or anyone claiming under that person, or wife or husband, be null and void, but the execution of the will shall not be affected thereby.



8. If any person attests the execution of a will, and the person, or the wife or husband of the person, is, in and by the will, nominated or appointed executor, administrator, or guardian thereunder, the appointment of that person, or the wife or husband of that person, as executor, administrator, or guardian, shall be null and void, but the execution of the will shall not be affected thereby.

Persons attesting execution of a will to forfeit any appointment made therein as executor, or guardian.

9. In no case shall any heir of any one dying after the commencement of this Ordinance be entitled to deduct out of the estate of the person so dying any portion under or by virtue of the laws known respectively as the Falcidian and Trebellianic laws which but for those laws respectively, the heir would not be entitled to claim or deduct.

Heir not entitled to deduct any portion under Falcidian and Trebellianic laws.

10. Nothing in this Ordinance contained shall affect or alter the laws of inheritance (on intestacy) at present in force in the colony.

Existing laws of inheritance ab intestato to remain in force.

11. The provisions of sections four, five, six, seven, eight, and ten, of this Ordinance shall apply to the wills, whether made before or after the commencement of this Ordinance, of all persons dying after the commencement.

Application of certain sections.

12. From and after the commencement of this Ordinance—

Gifts to illegitimate children.

(a) no restriction whatever shall be placed on any gifts by will by any parent to his or her illegitimate children; but nothing herein shall prevent any legitimate child or relative from receiving his legitimate portion free from all conditions;

(b) any woman, not an infant or otherwise under disability, whether married or unmarried, may be appointed guardian by a will;

Appointment of women as guardians;

(c) it shall not be necessary for any person appointed guardian under a will, other than a beneficiary under the will, or the parent, child, grandparent, grandchild, brother, sister, uncle, or aunt of the testator, to obtain the permission of the Court to enable him to refuse the guardianship, but on filing an affidavit with the registrar, stating that he is not a beneficiary or relative as aforesaid and does not desire to act, he shall be thereby discharged from all obligations in regard to the appointment;

right of non-relatives to refuse guardianship;



Lex Hac  
Edictali  
repealed.

(d) the sixth law of the ninth title of the fifth book of the Codes of Justinian, commencing with the words "Hac edictali," and commonly called or known as the Law or Lex Edictali, shall not apply to or have any force in the colony.

Repugnant  
laws  
repealed.

**13.** So much of any law or Ordinance heretofore existing in the colony as is repugnant to, or inconsistent with, any of the provisions of this Ordinance is hereby repealed.

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