

**Uniform Law  
Conference of Canada**

***Uniform  
Wills Act***

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# Uniform Wills Act

(1962 Consolidation, page 378, Amended 1966 Proceedings, pages 23, 178;  
1974 Proceedings pages 32, 171; 1986 Proceedings 37, 506;  
2000 Proceedings pages 63, 452; and 2003 Proceedings page 335)

## Interpretation

**1** In this Act “will” includes

- (a) a testament;
- (b) a codicil;
- (c) an appointment by will or by writing in the nature of a will in exercise of a power; and
- (d) any other testamentary disposition.

## Part I

### General

#### Property disposable by will

**2** A person may by will devise, bequeath or dispose of all real and personal property, (whether acquired before or after making his will), to which at the time of his death he is entitled either at law or in equity, including,

#### Estate *pur autre vie*

- (a) estates *pur autre vie*, whether there is or is not a special occupant and whether they are corporeal or incorporeal hereditaments;

#### Contingent interests

- (b) contingent, executory or other future interests in real or personal property, whether the testator is or is not ascertained as the person or one of the persons in whom those interests may respectively become vested, and whether he is entitled to them under the instrument by which they were respectively created or under a disposition of them by deed or will; and

#### Rights of entry

- (c) rights of entry.

#### Writing required

**3** A will is valid only when it is in writing.

#### Signature required

**4(1)** A will is validly made if

- (a) it is in writing and signed by the testator, or by another person in the testator’s presence and by the testator’s direction,
- (b) the signature is made or acknowledged by the testator in the presence of two or more witnesses, and

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- (c) at least two of the witnesses
  - (i) are both present at the same time as the signature is made or acknowledged by the testator, and
  - (ii) sign the will, or acknowledge their signatures, in the presence of the testator but not necessarily in the presence of each other.

**Presence of testator**

(2) A will is not invalid solely on the ground that the testator does not see the witness sign, if the testator is otherwise present.

**Placement of signature**

(3) A will is not invalid solely on the ground that the signature required by clause (1)(a) is not at the end of the will if it appears that the testator intended by the signature to give effect to the will.

**Military forces and mariners**

5(1) A member of the Canadian Forces while placed on active service pursuant to the *National Defence Act*, or a member of any other naval, land or air force while on active service, or a mariner or a seaman when at sea or in the course of a voyage, may make a will by a writing signed by him or by some other person in his presence and by his direction without any further formality or any requirement of the presence of or attestation or signature by a witness.

**Certificate**

(2) A certificate purporting to be signed by or on behalf of an officer having custody of the records of the force in which a person was serving at the time the will was made setting out that the person was on active service at that time is sufficient proof of that fact.

**“active service” defined**

(3) For the purposes of this section, if a certificate under subsection (2) is not available, a member of a naval, land or air force is deemed to be on active service after he has taken steps under the orders of a superior officer preparatory to serving with or being attached to or seconded to a component of such a force that has been placed on active service.

**Interpretation**

6(1) In this section, ‘own writing’ means handwriting, footwriting, mouthwriting or writing of a similar kind.

**Holograph will**

(2) A will, wholly in the testator’s own writing and signed by the testator, is validly made without meeting the requirements set out in clauses 4(1)(b) and (c).

**Idem**

(3) If a will is partly in the testator’s own writing and partly in printed, typewritten or other written form, and

- (a) it appears that the testator intended to incorporate the printed, typewritten or other words, and
- (b) the will is signed by the testator,

the will is validly made without meeting the requirements set out in clauses 4(1)(b) and (c).

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**7 Repealed. 1986**

**Infants**

8(1) A will made by a person who is under the age of majority is not valid unless at the time of making the will the person

- (a) is or has been married;
- (b) is a member of a component of the Canadian Forces,
  - (i) that is referred to in the *National Defence Act* as a regular force, or
  - (ii) while placed on active service under the *National Defence Act*; or
- (c) is a mariner or seaman.

**Certificate**

(2) A certificate purporting to be signed by or on behalf of an officer having custody of the records of the force in which a person was serving at the time the will was made setting out that the person was at that time a member of a regular force or was on active service within subsection (1)(b) is sufficient proof of that fact.

**Revocation of minor's will**

(3) A person who has made a will under subsection (1) may, while under the age of majority, revoke the will.

**Will exercising power of appointment**

9 A will made in accordance with this Act is as to form a valid execution of a power of appointment by will notwithstanding that it has been expressly required that a will in exercise of the power be made in some form other than that in which it is made.

**Publication**

10 A will made in accordance with this Act is valid without other publication.

**Incompetency of witness**

11 Where a person who attested a will at the time of its execution or afterward has become incompetent as a witness to prove its execution, the will is not on that account invalid.

**Gifts to attesting witness void**

12(1) Where a will is attested by a person to whom or to whose then wife or husband a beneficial devise, bequest or other disposition or appointment of or affecting real or personal property, except charges and directions for payment of debt, is thereby given or made, the devise, bequest or other disposition or appointment is void so far only as it concerns

- (a) the person so attesting; or
- (b) the wife or the husband or a person claiming under any of them,

but the person so attesting is a competent witness to prove the execution of the will or its validity or invalidity.

**Idem**

(2) Where a will is attested by at least two persons who are not within subsection (1) or where no attestation is necessary, the devise, bequest or other disposition or appointment is not void under that subsection.

(3) Notwithstanding subsection (1), where a (surrogate court) is satisfied that neither the person so attesting nor the spouse of the person exercised any improper or undue influence upon the testator, the devise, bequest or other disposition or appointment is not void.

**Creditor as witness**

**13** Where real or personal property is charged by a will with a debt and a creditor or the wife or husband of a creditor whose debt is so charged attests a will, the person so attesting, notwithstanding such charge, is a competent witness to prove the execution of the will or its validity or invalidity.

**Executor as witness**

**14** A person is not incompetent as a witness to prove the execution of a will, or its validity or invalidity solely because he is an executor.

**Revocation in general**

**15** A will or part of a will is revoked only by

- (a) marriage, subject to section 16;
- (b) another will made in accordance with this Act;
- (c) a writing
  - (i) declaring an intention to revoke, and
  - (ii) made in accordance with the provisions of this Act governing making of a will; or
- (d) burning, tearing or otherwise destroying it by the testator or by some person in his presence and by his direction with the intention of revoking it.

**Revocation by marriage**

**16(1)** Subject to an order under subsection (2), a will is revoked by the marriage of the testator except where

- (a) there is declaration in the will that it is made in contemplation of the marriage; or
- (b) the will is made in exercise of a power of appointment of real or personal property which would not in default of the appointment pass to the heir, executor or administrator of the testator or to the persons entitled to the estate of the testator if he died intestate.

(2) A court may order that a will was not revoked by the marriage of the testator if it is satisfied on clear and convincing evidence that the testator made the will in contemplation of the marriage.

**Comment:** *This section, amended in accordance with the change approved at the Year 2000 ULC, allows a court to provide relief from the otherwise automatic revocation of certain wills. It provides a dispensing power on the same evidentiary basis proposed by the amendments to section 19.1.*

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**No revocation by presumption**

17(1) Subject to subsection (2), a will is not revoked by presumption of an intention to revoke it on the ground of a change in circumstances.

**Effect of divorce**

(2) Where in a will

- (a) a devise or bequest of a beneficial interest in property is made to a spouse;
- (b) a spouse is appointed executor or trustee; or
- (c) a general or special power of appointment is conferred upon a spouse,

and after the making of the will and before the death of the testator, the marriage of the testator is terminated by a decree absolute of divorce or his marriage is found to be void or declared a nullity by a court in a proceeding to which he is a party, then, unless a contrary intention appears in the will, the devise, bequest, appointment or power is revoked and the will shall be construed as if the spouse had predeceased the testator.

**Interpretation**

(3) In subsection (2) “spouse” includes the person purported or thought by the testator to be his spouse. (*Revised 1978*)

**Making alterations**

18(1) Subject to subsection (2), unless an alteration that is made in a will after the will has been made is made in accordance with the provisions of this Act governing making of a will, the alteration has no effect except to invalidate words or meanings that it renders no longer apparent.

**Idem**

(2) An alteration that is made in a will after the will has been made is validly made when the signature of the testator and subscription of witnesses to the signature of the testator to the alteration, or, in the case of a will that was made under section 5 or section 6, the signature of the testator, are or is made

- (a) in the margin or in some other part of the will opposite or near to the alteration; or
- (b) at the foot or end of or opposite to a memorandum referring to the alteration and written in some part of the will.

**Alteration in own writing**

(3) Notwithstanding subsections (1) and (2), an alteration that is made in a will after the will has been made is validly made when the alteration is in the testator’s own writing, as defined in subsection 6(1), and is signed by the testator.

**Revival**

19(1) A will or part of a will that has been in any manner revoked is revived only

- (a) by a will made in accordance with this Act; or
- (b) by a codicil that has been made in accordance with this Act,

that shows an intention to give effect to the will or part that was revoked.

**Revival**

(2) Except when a contrary intention is shown, when a will which has been partly revoked and afterward wholly revoked, is revived, the revival does not extend to the part that was revoked before the revocation of the whole.

**Court may dispense with formal requirements**

**19.1(1)** Despite the other provisions of this Act, but subject to this section, if a document was not made in accordance with any or all of the formalities referred to in subsection (3), or is in an electronic form, or both, a court may nevertheless order that the document is valid as

- (a) a will of a deceased person, or
- (b) the revocation, alteration or revival of a will of a deceased person.

(2) In order to exercise the authority under subsection (1), the court must be satisfied on clear and convincing evidence that the deceased person intended the document to constitute a will of the deceased person or the revocation, alteration or revival of a will of the deceased person.

(3) For the purposes of subsection (1), the formalities are those established by sections 4, 5, 6, 15(c), 18 and 19.

(4) In this section, “electronic form” means, in respect of a document, data that

- (a) is recorded or stored on any medium in or by a computer system,
- (b) can be read by a person, and
- (c) is capable of reproduction in a visible form.

(5) This section applies [when: statement of intended application]

**Comment on Paragraph (4):**

Paragraph (3) defines the formalities which may be dispensed with – the requirement of writing in section 3 cannot be dispensed with. Paragraph (4) further defines, for the purpose of this section, a document in electronic form, i.e., a medium which produces a document that is visible and can be read by a person. This definition is narrower than other definitions of “electronic data” and is intended to preclude audio and video recorded wills or media that are machine readable only.

An e-will (a document in electronic form) must meet the definition of paragraph (4) and meet the threshold tests of paragraph (2).

**Subsequent conveyance, etc.**

**20(1)** A conveyance of or other act relating to real or personal property comprised in a devise or bequest or other disposition, made or done after the making of a will, does not prevent operation of the will with respect to any estate or interest in the property that the testator had power to dispose of by will at the time of his death.

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**Rights in place of property devised**

(2) Except when a contrary intention appears by the will, where a testator at the time of his death has a right or chose in action or equitable estate or interest that was created by a contract respecting, a conveyance of, or other act relating to real or personal property that was comprised in a devise or bequest, made or done after the making of a will, the devisee or donee of that real or personal property takes the right or chose in action or equitable estate or interest of the testator.

**Commingling proceeds of sale**

(3) Except when a contrary intention appears by the will, where the testator has bequeathed proceeds of the sale of property and the proceeds are received by him before his death, the bequest is not adeemed by commingling the proceeds with the funds of the testator if the proceeds are traced into those funds.

**Will revived or re-executed by codicil**

21(1) When a will has been revived or re-executed by a codicil, the will is deemed to have been made at the time at which it was revived or re-executed,

**Will speaking from death**

(2) Except when a contrary intention appears by the will, a will speaks and takes effect as if it had been made immediately before the death of the testator with respect to

- (a) the real and personal property; and
- (b) the right or chose in action or equitable estate or interest or the proceeds under section 20(2) and (3).

**Lapsed and void devises and bequests**

22 Except when a contrary intention appears by the will, real or personal property or an interest therein that is comprised or intended to be comprised in a devise or bequest that fails or becomes void by reason of

- (a) the death of the devisee or donee in the lifetime of the testator; or
- (b) the devise or bequest being contrary to law or otherwise incapable of taking effect,

is included in the residuary devise or bequest, if any, contained in the will.

**Inclusion of leaseholds in general devise**

23 Except when a contrary intention appears by the will, where a testator devises

- (a) his land;
- (b) his land in a place mentioned in the will, or in the occupation of a person mentioned in the will;
- (c) land described in a general manner; or
- (d) land described in a manner that would include a leasehold estate if the testator had no freehold estate which could be described in the manner used,

the devise includes the leasehold estates of the testator or any of them to which the description extends, as well as freehold estates.

**Exercise of general power of appointment by devise**

**24(1)** Except when a contrary intention appears by the will, a general devise of

- (a) the real property of the testator;
- (b) the real property of the testator
  - (i) in a place mentioned in the will, or
  - (ii) in the occupation of a person mentioned in the will; or
- (c) real property described in a general manner,

includes any real property or any real property to which the description extends, that he has power to appoint in any manner he thinks proper and operates as an execution of the power.

**Idem personal property**

**(2)** Except when a contrary intention appears by the will, a bequest of

- (a) the personal property of the testator; or
- (b) personal property described in a general manner, includes any personal property or any personal property to which the description extends that he has power to appoint in any manner he thinks proper and operates as an execution of the power.

**Devise without words of limitation**

**25** Except when a contrary intention appears by the will, where real property is devised to a person without words of limitation, the devise passes the fee simple or the whole of any other estate that the testator had power to dispose of by will in the real property.

**Gifts to heirs**

**26** Except when a contrary intention appears by the will, where property is devised or bequeathed to the “heir” of the testator or of another person,

- (a) the word “heir” means the person to whom the beneficial interest in the property would go under the law of the Province if the testator or the other person died intestate; and
- (b) where used in that law the word “child” includes for the purpose of this section a person related by or through adoption to the testator or the other person.

**Meaning of “die without issue”**

**27(1)** Subject to subsection (2), in a devise or bequest of real or personal property

- (a) the words,
  - (i) “die without issue”,
  - (ii) “die without leaving issue”, or
  - (iii) “have no issue”, or

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(b) other words importing either a want or failure of issue of a person in his lifetime or at the time of his death or an indefinite failure of his issue,

means a want or failure of issue in the lifetime or at the time of death of that person, and do not mean an indefinite failure of his issue unless a contrary intention appears by the will.

(2) This Act does not extend to cases where the words defined in subsection (1) import,

(a) if no issue described in a preceding gift be born; or

(b) if there be no issue who live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to that issue.

**Devise to trustees otherwise than for a term**

**28** Except when there is devised to a trustee expressly or by implication an estate for a definite term of years absolute or determinable or an estate of freehold, a devise of real property to a trustee or executor passes the fee simple or the whole of any other estate or interest that the testator had power to dispose of by will in the real property.

**Unlimited devise to trustees**

**29** Where real property is devised to a trustee without express limitation of the estate to be taken by him and the beneficial interest in the real property or in the surplus rents and profits.

(a) is not given to a person for life; or

(b) is given to a person for life but the purpose of the trust may continue beyond his life,

the devise vests in the trustee the fee simple or the whole of any other legal estate that the testator had power to dispose of by will in the real property and not an estate determinable when the purposes of the trust are satisfied.

**Charitable trusts**

**30(1)** Where a testator leaves property in trust or by outright gift for a charitable purpose that is linked conjunctively or disjunctively in the will with a non-charitable purpose, and the non-charitable purpose is void for uncertainty or for any other cause, the charitable trust or gift is valid and operates solely for the benefit of the charitable purpose.

**Linked charitable trusts and non-charitable trusts**

(2) Where a testator leaves property in trust or by outright gift for a charitable purpose that is linked conjunctively or disjunctively in the will with a non-charitable purpose and the non-charitable purpose is not void,

(a) the trust or gift is valid for both purposes; and

(b) where the will has not divided the property among the charitable and non-charitable purposes, the trustee or executor shall divide the property among the charitable and non-charitable purposes according to his discretion.

**Devise of estate tail**

**31** Except when a contrary intention appears by the will, where a person to whom real property is devised for what would have been under the law of England an estate tail or in quasi entail

- (a) dies
  - (i) in the lifetime of the testator,
  - (ii) at the same time as the testator, or
  - (iii) in circumstances rendering it uncertain whether that person or the testator survived the other, and
- (b) leaves issue who would inherit under the entail if that estate existed,

if any such issue are living at the time of the death of the testator, the devise does not lapse but takes effect as if the death of that person had happened immediately after the death of the testator.

**Gifts to issue predeceasing testator**

**32** Except when a contrary intention appears by the will, where a person dies in the life-time of a testator either before or after the testator makes the will and that person

- (a) is a child or other issue or a brother or sister of the testator to whom, either as an individual or as a member of a class, is devised or bequeathed an estate or interest in real or personal property not determinable at or before his death; and
- (b) leaves (a spouse or)\* issue any of whom is living at the time of the death of the testator,

the devise or bequest does not lapse, but takes effect as if it had been made directly to the persons among whom and in the shares in which the estate of that person would have been divisible if he had died intestate and without debts immediately after the death of the testator, (except that the surviving spouse of that person is not entitled to receive a preferential share of dollars as provided under subsection ( ) of section \_\_\_\_\_ of the \_\_\_\_\_ Act).

\* The words "a spouse or" in clause (b) should be considered carefully by any jurisdiction enacting the section as their inclusion would permit a surviving spouse of the beneficiary to benefit from the devise or bequest even though no issue survived the beneficiary. The words in brackets at the end of the section will not be necessary in those jurisdictions where a surviving spouse of an intestate leaving issue is not entitled to a preferential share. In those jurisdictions where the surviving spouse of an intestate leaving issue is entitled to a preferential share of the intestate's estate, special attention should be given to make sure the wording in the brackets at the end of the section is suitable, having regard to the provisions relating to intestate's succession.

**Illegitimate children**

**33** In the construction of testamentary dispositions, except when a contrary intention appears by the will, an illegitimate child shall be treated as if he were the legitimate child of his mother.

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**Primary liability of mortgaged land**

**34(1)** Where a person dies possessed of, or entitled to, or under a general power of appointment by his will disposes of, an interest in freehold or leasehold property which, at the time of his death, is subject to a mortgage, and the deceased has not, by will, deed or other document, signified a contrary or other intention,

(a) the interest is, as between the different persons claiming through the deceased, primarily liable for the payment or satisfaction of the mortgage debt; and

(b) every part of the interest, according to its value, bears a proportionate part of the mortgage debt on the whole interest.

**Idem**

(2) A testator does not signify a contrary or other intention within subsection (1) by,

(a) a general direction for the payment of debts or of all the debts of the testator out of his personal estate or his residuary real or personal estate, or his residuary real estate; or

(b) a charge of debts upon that estate,

unless he further signifies that intention by words expressly or by necessary implication referring to all or some part of the mortgage debt.

**Idem**

(3) Nothing in this section affects a right of a person entitled to the mortgage debt to obtain payment or satisfaction either out of the other assets of the deceased or otherwise.

**“mortgage” defined**

(4) In this section, “mortgage” includes an equitable mortgage, and any charge whatsoever, whether equitable, statutory or of other nature, including a lien or claim upon freehold or leasehold property for unpaid purchase money and “mortgage debt” has a meaning similarly extended.

**Executors as trustee of residue**

**35(1)** Where a person dies after this Act takes effect, having by will appointed a person executor, the executor is a trustee of any residue not expressly disposed of, for the person or persons, if any, who would be titled to that residue in the event of intestacy in respect to it, unless the person so appointed executor was intended by the will to take the residue beneficially.

**Executor's rights not affected**

(2) Nothing in this section affects or prejudices a right to which the executor, if this Part had not been passed, would have been entitled, in cases where there is not a person who would be so entitled.

**Application of this Part**

**36** This Part applies only to wills made on or after the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

## Part II

### Conflict of Laws

#### Conflict of laws interpretation

**37** In this Part,

- (a) an interest in land includes a leasehold estate as well as a freehold estate in land, and any other estate or interest in land whether the estate or interest is real property or is personal property;
- (b) an interest in movables includes an interest in a tangible or intangible thing other than land, and includes personal property other than an estate or interest in land;
- (c) “internal law” in relation to any place excludes the choice of law rules of that place.

#### Application of Part II

**38** This Part applies to a will made either in or out of this Province.

#### Interest in land

**39(1)** The manner and formalities of making a will, and its intrinsic validity and effect, so far as it relates to an interest in land, are governed by the internal law of the place where the land is situated.

#### Interest in movables

(2) Subject to other provisions of this Part, the manner and formalities of making a will, and its intrinsic validity and effect so far as it relates to an interest in movables, are governed by the internal law of the place where the testator was domiciled at the time of his death.

#### Interest in movables: formal validity

**40(1)** As regards the manner and formalities of making a will of an interest in movables, a will is valid and admissible to probate if at the time of its making it complied with the internal law of the place where

- (a) the will was made,
- (b) the testator was then domiciled;
- (c) the testator then had his habitual residence; or
- (d) the testator then was a national if there was in that place one body of law governing the wills of nationals.

#### Idem

(2) Without prejudice to subsection (1), as regards the manner and formalities of making a will or an interest in movables, the following are properly made:

- (a) a will made on board a vessel or aircraft of any description, if the making of the will conformed to the internal law in force in the place 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;

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(b) a will so far as it revokes a will which under this Part would be treated as properly made or revokes a provision which under this Part would be treated as comprised in a properly made will, if the making of the later will conformed to any law by reference to which the revoked will or provision would be treated as properly made;

(c) a will so far as it exercises a power of appointment, if the making of the will conforms to the law governing the essential validity of the power.

**Change of domicile**

**41** A change of domicile of the testator occurring after a will is made does not render it invalid as regards the manner and formalities of its making or alter its construction.

**Construction of will**

**42** Nothing in this Part precludes a resort to the law of the place where the testator was domiciled at the time of making a will in aid of its construction as regards an interest in land or an interest in movables.

**Movables related to land**

**43** Where the value of a thing that is movable consists mainly or entirely in its use in connection with a particular parcel of land by the owner or occupier of the land, succession to an interest in the thing under a will is governed by the law that governs succession to the interest in the land.

**Formalities**

**44(1)** Where, whether in pursuance of this Part or not, a law in force outside this Province is to be applied in relation to a will, any requirement of that law that

(a) special formalities are to be observed by testators answering a particular description; or

(b) witnesses to the making 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.

**Curative effect**

(2) In determining for the purposes of this Part whether or not the making of a will conforms to a particular law, regard shall be had to the formal requirements of that law at the time the will was made, but this does not prevent account being taken of an alteration of law affecting wills made at that time if the alteration enables the will to be treated as properly made.

*(Note: Each provincial legislature should expressly state (1) the date when this Act is to take effect and (2) the extent to which it is to apply to the wills of testators who die either before or after that date. An example of (2) is of section 7(4) of the Wills Act, 1963, (11-12 Elizabeth II, c. 44):*

*This Act does not apply to a will of a testator who died before the time of the commencement of this Act and applies to a will of a testator who dies after that time whether the will was executed before or after that time, but so that the repeal of the Wills Act 1861 shall not invalidate a will executed before that time.)*

### Part III

#### International Wills

##### Definitions

**45** In this Part

- (a) “**convention**” means the convention providing a uniform law on the form of international will, a copy of which is set out in the schedule to this Act;
- (b) “**effective date**” means the day that is six months after the date on which the Government of Canada submits to the Government of the United States of America a declaration that the convention extends to the province; *(Updated editorially in 1979)*
- (c) “**international will**” means a will that has been made in accordance with the rules regarding an international will set out in the Annex to the convention;
- (d) “**registration system**” means a system for the registration, or the registration and safekeeping, of international wills established under section 52 or pursuant to an agreement entered into under section 53;
- (e) “**registrar**” means the person responsible for the operation and management of the registration system.

##### Application of convention

**46** On, from and after the effective date, the convention is in force in the province and applies to wills as law of the province.

##### Rules regarding international wills

**47** On, from and after the effective date, the rules regarding an international will set out in the Annex to the convention are law in the province.

##### Validity of wills under other laws

**48** Nothing in this Part detracts from or affects the validity of a will that is valid under the laws in force within the province other than this Part.

##### Authorized persons

**49** All members of \_\_\_\_\_ *(name of Law Society or Society of Notaries)* are designated as persons authorized to act in connection within international wills.

##### Request for declaration

**50** The *(Provincial Secretary or other provincial minister)* shall request the Government of Canada to submit a declaration to the Government of the United States of America declaring that the convention extends to *(enacting province)*. *(Amended editorially in 1979)*.

##### Effective date determined

**51** As soon as the effective date is determined, *(the Provincial Secretary or other provincial minister)* shall publish in the Gazette a notice indicating the date that is the effective date for the purposes of this Part.

*Wills*

**Registration system**

**52** The Attorney General shall establish a system of registration or registration and safekeeping of international wills.

**Agreements re registration system**

**53** With the approval of the Lieutenant Governor in Council, the Attorney General for and on behalf of Her Majesty in right of (*enacting province*) may enter into an agreement with the government of another province or a minister or official of the government of another province relating to the establishment of a system of registration or registration and safekeeping of international wills for (*enacting province*) and that other province, and for the joint operation of that system, or relating to the exchange of information contained in a system established under section 52 and a similar system established for that other province.

**Joint system in lieu of provincial system**

**54** Where a registration system is established pursuant to an agreement entered into under section 53, the Attorney General is relieved of his obligation under section 52.

**Disclosure of information in system**

**55(1)** Information contained in the registration system concerning the international will of a testator shall not be released from the system except in accordance with an agreement made under section 53 or except to a person who satisfies the registrar that

- (a) he is the testator; or
- (b) he is person who is authorized by the testator to obtain such information; or
- (c) the testator is dead and the person is a proper person to have access to the information.

**Release of will held for safekeeping**

**(2)** Where the registration system provides for the safekeeping of international wills, an international will of a testator deposited in the system shall not be released except to a son who satisfies the registrar that

- (a) he is the testator; or
- (b) he is a person who is authorized by the testator to obtain the will; or
- (c) the testator is dead and the person is a proper person to have custody of the will for the purposes of the administration of, the estate of the testator or the agent of such a person.

**Use of registration system**

**56(1)** Where a member of (*name of Law Society or Society of Notaries*) has acted during any month in respect of one or more international wills in his capacity as a person authorized to act in connection with international wills, the member shall, on or before the 10th day of the next month, file or cause to be filed with the registrar, in a sealed envelope, a list on a form prescribed under the regulations, certified by him or his agent, setting out the name, address and description of the testator and the date of execution of each international will in respect of which he so acted, and the registrar shall enter the information in the registration system.

**Failure to register not affecting validity**

(2) The failure of a member of the (*name of Law Society or Society of Notaries*) to comply with subsection (1) in respect of an international will does not affect the validity of the international *will*.

**Regulations**

**57** The Lieutenant Governor in Council may make regulations respecting the operation, maintenance and use of the registration system, and without limiting the generality of the foregoing, may make regulations.

- (a) prescribing forms for use in the system; and
- (b) prescribing fees for searches of the registration system.

*(Note: Sections 52 to 57 may be brought into force on proclamation. Section 56 should not come into force until the registration system has been established)*

*(Note: Consideration should be given in each jurisdiction enacting this Part as to changes that may be required to section 43 of the Uniform Wills Act or any equivalent provision for the local Wills Act.)*

**Part IV****Supplementary****Application of the Act**

**58(1)** Except as provided in subsection (2), this Act applies only to wills made after this Act comes into force; and for the purposes of this Act a will which is re-executed or revived by a codicil shall be deemed to be made at the time at which it is so re-executed or revived.

**Idem s.32**

(2) In the case of a person dying after this Act comes into force, section 32 applies to his will whether it was made before or after this Act comes into force.

**Repeal**

**59(1)** Except as provided in subsection (2), the (*cite here the existing Wills Act*) is repealed.

**Exception**

(2) The Act mentioned in subsection (1) continues in force, as if unrepealed, in respect of wills made before this Act comes into force.