Tuvalu

WILLS ACT

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WILLS ACT

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WILLS ACT

AN ACT TO MAKE PROVISIONS FOR THE VALIDITY OF CERTAIN WILLS AND FOR MATTERS RELATING AND INCIDENTAL THERETO

Commencement [28th June 1966]

1 Short Title
This Act may be cited as the Wills Act.

2 Interpretation
(1) In this Act, unless the context otherwise requires —
    “internal law” in relation to any territory or state means the law which would apply in a case where no question of the law in force in any other territory or state arose;
    “state” means a territory or group of territories having its own law of nationality;
    “will” includes any testamentary instrument or act, and “testator” shall be construed accordingly.

(2) Where under this Act the internal law in force in any territory or state is to be applied in the case of a will, but there are in force in that territory or state two or more systems of internal law relating to the formal validity of wills, the system to be applied shall be ascertained as follows —
    (a) if there is in force throughout the territory or state a rule indicating which of those systems can properly be applied in the case in question, that rule shall be followed; or
    (b) if there is no such rule, the system shall be that with which the testator was most closely connected at the relevant time, and for this purpose
the relevant time is the time of the testator’s death where the matter is
to be determined by reference to circumstances prevailing at his death,
and the time of execution of the will in any case.

(3) In determining for the purposes of this Act whether or not the execution of a
will conformed to a particular law, regard shall be had to the formal
requirements of that law at the time of execution but this shall not prevent
account being taken of an alteration of the law affecting wills executed at that
time if the alteration enables the will to be treated as properly executed.

3 Application

This Act shall not apply to a will of a testator who died before the time of the
commencement of this Act and shall apply 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 coming
into operation of this Act shall not invalidate a will executed before that time.

4 General rule as to formal validity

A will shall be treated as properly executed if its execution conformed to the internal
law in force in the territory where it was executed, or in the territory where, at the
time of its execution or of the testator’s death, he was domiciled or had his habitual
residence, or in a state of which, at either of those times, he was a national.

5 Additional rules

(1) Without prejudice to the preceding section, the following shall be treated as
properly executed —

(a) a will executed on board a vessel or aircraft of any description, if the
execution of the will conformed to the internal law in force in the
territory 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;

(b) a will so far as it disposes of immovable property, if its execution
conformed to the internal law in force in the territory where the
property was situated;

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

(d) a will so far as it exercises a power of appointment, if the execution of
the will conformed to the law governing essential validity of the power.
(2) A will so far as it exercises a power of appointment shall not be treated as
improperly executed by reason only that its execution was not in accordance
with any formal requirements contained in the instrument creating the power.

6 Certain requirements to be treated as formal

Where (whether in pursuance of this Act or not) a law in force outside Tuvalu falls
to be applied in relation to a will, any requirement of that law whereby special
formalities are to be observed by testators answering a particular description, or
witnesses to the execution 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.

7 Construction of wills

The construction of a will shall not be altered by reason of any change in the
testator's domicile after the execution of the will.
ENDNOTES