

THE WILLS (AMENDMENT) ACT, 1967

No. 26



of 1967

AN ACT TO AMEND THE WILLS PROCLAMATION

Date of Assent : 20th September, 1967

Date of Commencement : 22nd September, 1967

ENACTED by the Parliament of Botswana.

Short Title.

1. This Act may be cited as the Wills (Amendment) Act, 1967.

Amendment of Chapter 87.

2. The Wills Proclamation (Chapter 87) (hereinafter referred to as the principal law) is amended by inserting prior to section 2 —

“ PART I

WILLS EXECUTED IN BOTSWANA ”

Replacement of Section 8 of Chapter 87.

3. The principal law is hereby amended by the repeal of section 8 and the substitution of —

“ PART II

WILLS EXECUTED OUTSIDE BOTSWANA

Interpretation.

8. (1) In this Part, 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.

(2) In determining for the purposes of this Part 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 law affecting wills executed at the time if the alteration enables the will to be treated as properly executed.

Application.

9. This Part shall not apply to a will of a testator who died before the date of promulgation and shall apply to a will of a testator who dies after that date whether the will was executed before or after that date.

General Rule as to Validity.

10. 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.

Additional Rules.

11. Without prejudice to the immediately 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 Part would be treated as properly executed or revokes a provision which under this Part 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.

Short Title.

12. This Proclamation may be cited as the Wills Proclamation."

Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,
Clerk of the National Assembly.