



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 86 of 1975

An Act to amend the Wills Act, 1936-1975.

[Assented to 20th November, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Wills Act Amendment Act (No. 2), 1975".

(2) The Wills Act, 1936-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Wills Act, 1936-1975".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of
principal Act,
s. 1—
Arrangement
of Act.

3. Section 1 of the principal Act is amended by striking out from subsection (2) the passage "(sections 25a-25d)" and inserting in lieu thereof the passage "(sections 25a-25c)".

Repeal of
s. 7 of
principal Act.

4. Section 7 of the principal Act is repealed.

Amendment of
principal Act,
s. 8—
Requirements
as to writing
and execution
of will.

5. Section 8 of the principal Act is amended by striking out the word "No" being the first word of that section and inserting in lieu thereof the passage "Subject to this Act, no".

Amendment of
principal Act,
s. 9—
When signature
to will deemed
to be valid.

6. Section 9 of the principal Act is amended by inserting in subsection (3) after the word "but" the passage ", subject to this Act,".

Repeal of
s. 10 of
principal Act
and enactment
of section in
its place—

7. Section 10 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Exercise of
power of
appointment
by will.

10. Where a person holds a power of appointment that is exercisable by will—

(a) the provisions of this Act relating to the formalities with which the will must be executed apply in relation to the will notwithstanding that the power has been conferred on condition that a will made in exercise of the power should be executed with some other or lesser formality; and

(b) the power may be exercised by a will executed in accordance with this Act notwithstanding that the power has been conferred on condition that a will made in exercise of the power should be executed with some other or additional formality.

8. Section 11 of the principal Act is repealed and the following section is enacted and inserted in its place:—

11. Any person who is on active service as a member of a military, naval or air force of the Commonwealth may dispose of his real and personal property by nuncupative will.

Repeal of s. 11 of principal Act and enactment of section in its place—
Will of person on active service.

9. Section 12 of the principal Act is repealed and the following section is enacted and inserted in its place:—

12. (1) A will is valid if executed in accordance with this Act, notwithstanding that the will is not otherwise published.

(2) A document purporting to embody the testamentary intentions of a deceased person shall, notwithstanding that it has not been executed with the formalities required by this Act, be deemed to be a will of the deceased person if the Supreme Court, upon application for admission of the document to probate as the last will of the deceased, is satisfied that there can be no reasonable doubt that the deceased intended the document to constitute his will.

Repeal of s. 12 of principal Act and enactment of section in its place—
Validity of will.

10. Section 25*b* of the principal Act is amended by striking out the passage “for the purpose of being admitted in the State to probate” and inserting in lieu thereof the passage “for all purposes”.

Amendment of principal Act, s. 25*b*—
General rule as to formal validity.

11. Section 25*c* of the principal Act is amended by striking out subsection (2).

Amendment of principal Act, s. 25*c*—
Additional rules.

12. Section 25*d* of the principal Act is repealed.

Repeal of s. 25*d* of principal Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor