

THE STATUTE LAWS OF CYPRUS

No. 25 OF 1945.

A LAW TO AMEND AND CONSOLIDATE THE LAW RELATING
TO WILLS AND TO TESTAMENTARY AND INTESTATE
SUCCESSION.

R. E. TURNBULL,]

[7th December, 1945.

Officer Administering the Government.

BE it enacted by His Excellency the Officer Administering
the Government and Commander-in-Chief of the
Colony of Cyprus as follows:—

PART I.—GENERAL PROVISIONS.

1. This Law may be cited as the Wills and Succession **Short title.**
Law, 1945.

Interpre-
tation.

2. In this Law, unless the context otherwise requires—

“ administrator ” means a person to whom a Court or Tribunal has granted letters of administration or letters of administration with will annexed ;

“ codicil ” means an instrument in writing made in relation to a will explaining, adding to, altering or revoking, in whole or in part, its disposition, and it shall be considered as forming an amending or additional part of the will ;

“ coercion ” means the committing or threatening to commit any act forbidden by the Cyprus Criminal Code, 1928 to 1944, or the unlawful detaining or threatening to detain any property, to the prejudice of any person whatever with the intention of causing any person to do any act against his will, and it is immaterial whether the Cyprus Criminal Code, 1928 to 1944, is or is not in force in the place where the coercion is employed ;

“ Court ” means the District Court of the district in which the deceased had his ordinary or last place of residence in the Colony ;

“ disposable portion ” means that part of the movable property and immovable property of a person which he can dispose of by will ;

“ estate ” means the movable property and immovable property of which a person dies possessed ;

“ executor ” means a person to whom the execution of the last will of a deceased person is confided by the appointment of the testator ;

“ fraud ” includes any of the following acts committed by a person or with his connivance or by his agent, with intent to deceive another person or his agent or to induce him to do any act, that is to say—

(a) the suggestion, as to a fact, of that which is not true by one who does not believe it to be true,

(b) the active concealment of a fact by one having knowledge or belief of the fact,

(c) a promise made without any intention of performing it,

(d) any other act fitted to deceive ;

“ heir ” means a person who by operation of law succeeds to an estate ;

“ immovable property ” includes—

(a) land,

(b) buildings and other erections, structures or fixtures affixed to any land or to any building or other erection or structure,

The Cyprus
Criminal
Code Order
in Council,
1928.
9 of 1931
to
19 of 1944

- (c) trees, vines and any other thing whatsoever planted or growing upon any land and any produce thereof before severance,
- (d) springs, wells, water and water rights whether held together with, or independently of, any land,
- (e) privileges, liberties, easements and any other rights and advantages whatsoever appertaining or reputed to appertain to any land or to any building or other erection or structure,
- (f) an undivided share in any property hereinbefore set out ;

“incapable person” means any person not under disability but who is certified by two duly qualified medical practitioners to be incapable from infirmity of mind due to a disease or old age of managing his own affairs ;

“infant” means every person who has not completed eighteen years of age ;

“legacy” means a gift by will of movable property or immovable property ;

“legatee” means a person to whom a legacy has been left ;

“letters of administration” means the written authority given to an administrator by a Court or Tribunal to administer the estate of a person who has died intestate or to administer an estate in which a person under disability or an incapable person is interested ;

“letters of administration with will annexed” means the written authority given to an administrator by a Court or Tribunal to administer the estate of a person who has left a will without having appointed an executor or has appointed an executor who has renounced probate or become incapable of acting ;

“mental patient” means any person adjudged to be a mental patient under the provisions of the Mental Patients Law, 1931 ;

14 of 1931.

“movable property” means all property of every description which is not immovable property ;

“person under disability” means every person who is an infant or a mental patient or is prohibited by a Court from the management of his affairs or is absent from the Colony ;

“probate” means an instrument in writing issuing out of the Court or Tribunal declaring that the will of a deceased person has been duly proved and that administration of his estate has been granted to an executor named therein ;

“religious corporation” includes any religious establishment or religious institution belonging to any denomina-

tion and any throne, church, chapel, monastery, mosque, tekyé, shrine or synagogue ;

“signature” and “to sign” and their cognate expressions shall, in the case of an illiterate person, include his mark or seal ;

“statutory portion” means that part of the movable property and immovable property of a person which he cannot dispose of by will ;

“Tribunal” means a Mussulman Religious Tribunal of competent jurisdiction ;

“undisposed portion” means the whole or the part, as the case may be, of the disposable portion which has not been disposed of by will ;

“undue influence” means the exercise by a person of influence to dominate the will of another person where the relations subsisting between them are such that one of them is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other ;

“will” means the legal declaration in writing of the intentions of a testator with respect to the disposal of his movable property or immovable property after his death, and includes codicil.

Succession.

3. On the death of a person his estate shall pass as a whole to one or several other persons.

Mode of succession.

4. Succession to an estate may be either by will or by the operation of law or by will and by the operation of law.

Succession to estate how regulated.

5. This Law shall regulate—

- (a) the succession to the estate of all persons domiciled in the Colony ;
- (b) the succession to immovable property of all persons not domiciled in the Colony.

Kinds of domicil.

6. Every person has at any given time either—

- (a) the domicil received by him at his birth (which domicil is in this Part called “the domicil of origin”), or
- (b) a domicil (not being the same as the domicil of origin) acquired or retained by him by his own act (which domicil is in this Part called “the domicil of choice”).

Domicil of origin of legitimate child.

7. In the case of a legitimate child born during his father’s lifetime, the domicil of origin of the child is the domicil of his father at the time of the child’s birth.

Domicil of origin of illegitimate or posthumous child

8. In the case of an illegitimate or a posthumous child, the domicil of origin of the child is the domicil of his mother at the time of the child’s birth.

9. A person acquires a domicile of choice by establishing his home at any place in the Colony with the intention of permanent or indefinite residence therein, but not otherwise:

Domicil of choice how acquired.

Provided that no person shall be held to have acquired a domicile of choice in the Colony by reason only of his residing there in His Majesty's naval, military, air or civil service.

10. The domicile of origin prevails and is retained until a domicile of choice is in fact acquired.

Domicil of origin prevails.

11. A domicile of choice is retained until it is abandoned, whereupon either—

Domicil of choice retained.

(a) a new domicile of choice is acquired, or

(b) the domicile of origin is resumed.

12. Succession to movable property of persons dying in the Colony but not domiciled there shall be regulated by the law of the country in which they had their domicile at the time of their decease.

Succession to movable property of persons not domiciled in the Colony.

13. No person can for the purpose of succession to movable property have more than one domicile.

One domicile only for succession to movable property.

14.—(1) A person who has disappeared or is missing may, subject to the provisions of this section, be declared dead by an order of a Court or Tribunal.

Declaration of death in certain cases.

(2)—(a) The declaration of death may be made if for ten years no news has been received that the person who has disappeared is alive:

Provided that no such declaration shall be made before the close of the year in which the person who has disappeared would have completed his twenty-eighth year of age:

Provided further that in the case of a person who has disappeared and who would have completed his seventieth year of age such declaration may be made if for five years no news has been received that he is alive.

(b) The periods of ten and five years, respectively, in this sub-section mentioned, will commence to run from the close of the last year in which the person who has disappeared was reported to be still alive.

(3)—(a) A person, who as a member of an armed force has taken part in a war, has been missed during the war and has not since been heard of, may be declared dead if three years have elapsed since the conclusion of peace. If no conclusion of peace has taken place, the three years in this section mentioned will commence to run from the close of the year in which the war was brought to an end.