

The Wills Act 7 of 1953 - A Holistic Discussion

Workshop 1

Provisional content

1 Introduction

- 1.1 Definitions in the Act,
amendment'; 'deletion'; 'sign'/'signature'; 'will'

2 Formalities for execution of a will

2.1 Statutory provisions

- Section 2(1)(a)(i) - (v)(aa)-(bb) of the Wills Act 7 of 1953
- Section 2(1)(a)(v) contains certain additional provisions which must be complied with if:
 - (i) Someone signs on behalf of the testator; and
 - (ii) a testator signs his will at the end by making a mark

2.2 Recent case law

3 Formalities for amendment of a will

3.1 Statutory provisions

- Section 2(1)(b)(i)-(iv)

3.2 Presumption for the purposes of subsection 2(1)(b)

- Section 2(2)

4 Power of the court to condone non-compliance with subsection (1)

4.1 Statutory provisions

- Section 2(3)
- Requirements

4.2 Recent case law

5 Certificate for purposes of section 2(1)(a)(v) and 2(1)(b)(iv)

- Section 2(4)

6 Power of court to declare a will to be revoked

6.1 Revocation

- Common law provisions

6.2 Statutory provisions

- Section 2A (non-compliance with the common law)
- Section 2B = automatic lapsing

6.3 Recent case law

7 Effect of divorce or annulment of marriage on will

- Section 2B

8 Surviving spouse and descendants of certain persons entitled to benefits in terms of will

- Section 2C(1) - accrual
- Section 2C(2) – representation

9 Interpretation of wills

9.1 Section 2D(1)

9.1.1 an adopted child

9.1.2 person was born out of wedlock

9.1.3 the members of a class of persons

9.2 Provisions of the will

10 Competency to make a will

Section 4 - testamentary capacity

Section 4A(1)-(3) - Competency of persons involved in execution of will