

Wills Amendment (International Wills) Bill 2012

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Uniform Law on the Form of an International
Will 1973**

ANNEX

**UNIFORM LAW ON THE FORM OF AN
INTERNATIONAL WILL**

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Western Australia

LEGISLATIVE ASSEMBLY

Wills Amendment (International Wills) Bill 2012

A Bill for

An Act to amend the *Wills Act 1970*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Wills Amendment (International Wills) Act 2012*.

3 **2. Commencement**

4 (1) This Act comes into operation as follows —

5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;

7 (b) the rest of the Act — on a day fixed by proclamation.

8 (2) A proclamation cannot be made under subsection (1)(b) unless
9 the *Convention providing a Uniform Law on the Form of an*
10 *International Will 1973* has entered into force in Australia.

11 **3. Act amended**

12 This Act amends the *Wills Act 1970*.

13 **4. Section 8 amended**

14 In section 8 after “Parts” insert:

15

16 XA,

17

18 **5. Part XA inserted**

19 After section 31 insert:

20

21 **Part XA — International wills**

22 **32A. Terms used**

23 In this Part —

24 *Australian legal practitioner* has the meaning given in
25 the *Legal Profession Act 2008* section 3;

Convention means the *Convention providing a Uniform Law on the Form of an International Will 1973* signed in Washington, D.C. on 26 October 1973;

international will means a will made in accordance with the requirements of the Annex to the Convention as set out in Schedule 1;

this jurisdiction means Western Australia.

32B. Application of Convention

The Annex to the Convention has the force of law in this jurisdiction.

Note: The Annex to the Convention is set out in Schedule 1.

32C. Persons authorised to act in connection with international wills

(1) For the purposes of this Part, the following persons are authorised to act in connection with an international will —

- (a) an Australian legal practitioner;
- (b) a public notary of any Australian jurisdiction.

(2) For the purposes of this Part, a reference in the Annex to the Convention to a person authorised to act in connection with international wills is a reference to —

- (a) a person referred to in subsection (1) who is acting in Australia; or
- (b) any other person who is acting as an authorised person under the law of a state (other than Australia) that is a party to the Convention.

Note: This section gives effect to Articles II and III of the Convention.

Note: See section 11.

To avoid doubt, the provisions of this Act that apply to wills extend to international wills.

Delete the Schedule and insert:

[s. 32A]

UNIFORM LAW ON THE FORM OF AN INTERNATIONAL WILL

1. A will shall be valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile or residence of the testator, if it is made in the form of an international will complying with the provisions set out in Articles 2 to 5 hereinafter.
2. The invalidity of the will as an international will shall not affect its formal validity as a will of another kind.

Article 2

This law shall not apply to the form of testamentary dispositions made by two or more persons in one instrument.

Article 3

1. The will shall be made in writing.
2. It need not be written by the testator himself.
3. It may be written in any language, by hand or by any other means.

Article 4

1. The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof.
2. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

Article 5

1. In the presence of the witnesses and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.
2. When the testator is unable to sign, he shall indicate the reason therefor to the authorized person who shall make note of this on the will. Moreover, the testator may be authorized by the law under which the authorized person was designated to direct another person to sign on his behalf.
3. The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

Article 6

1. The signatures shall be placed at the end of the will.

- 1 2. Certify that on (date) at
2 (place)
- 3 3. (testator) (name, address, date
4 and place of birth) in my presence and that of the witnesses
- 5 4.(a) (name, address, date and
6 place of birth)
- 7 (b) (name, address, date and
8 place of birth)
- 9 has declared that the attached document is his will and that
10 he knows the contents thereof.
- 11 5. I furthermore certify that:
- 12 6.(a) in my presence and in that of the witnesses
- 13 (1) the testator has signed the will or has acknowledged his
14 signature previously affixed.
- 15 *(2) following a declaration of the testator stating that he was
16 unable to sign his will for the following
17 reason
- 18 — I have mentioned this declaration on the will
- 19 * — the signature has been affixed by
20 (name, address)
- 21 7.(b) the witnesses and I have signed the will;
- 22 8.*(c) each page of the will has been signed by
23 and numbered;
- 24 9.(d) I have satisfied myself as to the identity of the testator and
25 of the witnesses as designated above;
- 26 10.(e) the witnesses met the conditions requisite to act as such
27 according to the law under which I am acting;
- 28 11.*(f) the testator has requested me to include the following
29 statement concerning the safekeeping of his will
30

s. 6

- 1 12. PLACE
2 13. DATE
3 14. SIGNATURE and, if necessary, SEAL

4 **Article 11**

5 The authorized person shall keep a copy of the certificate
6 and deliver another to the testator.

7 **Article 12**

8 In the absence of evidence to the contrary, the certificate of
9 the authorized person shall be conclusive of the formal
10 validity of the instrument as a will under this Law.

11 **Article 13**

12 The absence or irregularity of a certificate shall not affect
13 the formal validity of a will under this Law.

14 **Article 14**

15 The international will shall be subject to the ordinary rules
16 of revocation of wills.

17 **Article 15**

18 In interpreting and applying the provisions of this law,
19 regard shall be had to its international origin and to the need
20 for uniformity of interpretation.

21

22

23 *To be completed if appropriate

24

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