



AN BILLE UM CHLÁRÚ UACHTANNA 2005
REGISTRATION OF WILLS BILL 2005

Mar a ritheadh ag Seanad Éireann
As passed by Seanad Éireann

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and collective citation.
2. Commencement.
3. Interpretation.
4. Regulations.
5. Expenses of Minister and Minister for Finance.

PART 2

ADMINISTRATION

6. Register.
7. Correction of errors at request of testator.
8. Annual Report.

PART 3

REGISTRATION OF WILLS

9. “the register” (*Part 3*).
10. Provision of particulars, and registration, of wills.
11. Privacy of will records.
12. Search of register of wills.
13. Registration or non-registration not evidence; not to be used for construction.

PART 4

AMENDMENTS TO CIVIL REGISTRATION ACT 2004

14. Amendment of section 2 of Act of 2004.
15. Amendment of section 8 of Act of 2004.
16. Amendment of section 15 of Act of 2004.
17. Amendment of section 17 of Act of 2004.
18. Amendment of section 60 of Act of 2004.
19. Amendment of section 69 of Act of 2004.
20. Amendment of section 70 of Act of 2004.

SCHEDULE

PARTICULARS TO BE ENTERED IN REGISTER OF WILLS

ACTS REFERRED TO

| | |
|-----------------------------------------|--------------|
| Civil Registration Act 2004 | 2004, No. 3 |
| Electronic Commerce Act 2000 | 2000, No. 27 |
| Social Welfare (Consolidation) Act 1993 | 1993, No. 27 |
| Succession Act 1965 | 1965, No. 27 |



AN BILLE UM CHLÁRÚ UACHTANNA 2005
REGISTRATION OF WILLS BILL 2005

BILL

entitled

5 AN ACT TO PROVIDE FOR THE EXTENSION OF THE CIVIL
REGISTRATION SERVICE TO THE REGISTRATION OF
CERTAIN INFORMATION REGARDING WILLS AND
FOR THOSE PURPOSES TO REVISE THE LAW RELAT-
10 ING TO THE CIVIL REGISTRATION SERVICE AND TO
PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

15 **1.—(1)** This Act may be cited as the Registration of Wills Act 2006. Short title and collective citation.

(2) This Act and the Civil Registration Act 2004 may be cited together as the Civil Registration Acts 2004 and 2006.

20 **2.—**This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. Commencement.

3.—(1) In this Act, except where the context otherwise requires— Interpretation.

“the Act of 2004” means the Civil Registration Act 2004;

“the Act of 1965” means the Succession Act 1965;

25 “Ard-Chláraitheoir” shall be construed in accordance with section 7 of the Act of 2004;

“authorised officer” shall be construed in accordance with section 17(10) of the Act of 2004;

30 “Civil Registration Service” shall be construed in accordance with section 8 of the Act of 2004;

“Minister” means Minister for Health and Children;

“personal public service number” has the meaning assigned to it by the Social Welfare (Consolidation) Act 1993;

“prescribed” means prescribed by regulations made by the Minister;

“qualified informant” in relation to a will, shall be construed in accordance with *section 10*; 5

“registrar” shall be construed in accordance with section 2 of the Act of 2004 (as amended by *section 14*);

“the required particulars” means in relation to a will, the particulars specified in the *Schedule*; 10

“signature” includes an electronic signature within the meaning of the Electronic Commerce Act 2000 and cognate words shall be construed accordingly;

“Superintendent Registrar” shall be construed in accordance with section 17 of the Act of 2004; 15

“will” shall be construed in accordance with section 3 of the Act of 1965.

(2) In this Act—

(a) a reference to a section, Part or Schedule is a reference to a section, Part or Schedule of or to this Act, unless it is indicated that a reference to some other provision is intended; 20

(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended; 25

(c) a reference to any enactment or instrument made under statute is a reference to that enactment or instrument as amended, adapted or extended at any time by any enactment or instrument made under statute. 30

Regulations.

4.—(1) The Minister may make regulations—

(a) for any purpose in relation to which regulations are provided for by any of the provisions of this Act,

(b) for prescribing any matter or thing referred to in this Act as prescribed or to be prescribed, 35

(c) generally for the purpose of giving effect to this Act.

(2) If in any respect any difficulty arises during the period of two years from the commencement of this section in bringing this Act into operation, the Minister may, by regulations made by him or her, do anything which appears to be necessary or expedient for bringing this Act into operation. 40

(3) A regulation under this section may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient.

5 (4) A regulation under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done
10 thereunder.

5.—(1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses of Minister and Minister for Finance.

15 (2) The expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

PART 2

ADMINISTRATION

20 6.—(1) There shall be established, where appropriate, and maintained by an tArd-Chláraitheoir a register of wills (which shall be known, and is referred to in this Act, as the register of wills). Register.

(2) A register of wills may be maintained in any legible form or in any other form that is capable of being converted into a legible
25 form and of being used to make a legible copy or reproduction of an entry in the register.

(3) Evidence of an entry in a register of wills and of the facts stated therein may be given by the production of a document purporting to be a legible copy of the entry and to be certified to be a true copy by an tArd-Chláraitheoir, a person authorised in that
30 behalf by an tArd-Chláraitheoir, a Superintendent Registrar, an authorised officer or a registrar.

7.—On the application in that behalf by a person, who made a will referred to in an entry in the register of wills, to an tArd-Chláraitheoir in writing a correction or addition to that entry in the register of wills may, if an tArd-Chláraitheoir so directs, be made by but only
35 by a person authorised in that behalf by him or her. Correction of errors at request of testator.

8.—(1) An tArd-Chláraitheoir shall, not later than 30 June in each year, beginning with the year 2006, prepare a report in writing (in
40 this section referred to as “the report”) on the operation of this Act in the preceding year and shall furnish a copy of it to the Minister. Annual Report.

(2) The report shall, if the Minister so directs, include information in such form and regarding such matters as he or she may specify.

(3) The Minister shall cause copies of the report to be laid before
45 each House of the Oireachtas.

PART 3

REGISTRATION OF WILLS

“the register”
(Part 3).

9.—In this Part, “the register” means the register of wills, and cognate words shall be construed accordingly.

Provision of
particulars, and
registration, of wills.

10.—(1) Subject to the provisions of this Part, when a person has made a will, whether before or after the commencement of this section, any qualified informant may register that will by— 5

(a) attending before any registrar,

(b) there, giving to the registrar, to the best of his or her knowledge and belief, the required particulars of the will specified in the *Schedule*, and 10

(c) there, signing the register in the presence of the registrar.

(2) Where *paragraphs (a) to (c) of subsection (1)* have been complied with in relation to a will, the registrar concerned shall register the will in such manner as an tArd-Chláraitheoir may direct. 15

(3) One or more wills, including codicils, made by the same testator may be registered or re-registered under this section.

(4) In this section “qualified informant”, in relation to a will, means the person who made that will or a solicitor instructed to register the will by the person who made that will. 20

(5) Subject to *section 7*, when the will is registered pursuant to this section, that registration shall subsist notwithstanding any further registrations pursuant to *subsection (3)*.

Privacy of will
records.

11.—(1) No person other than an tArd-Chláraitheoir or a person authorised in that behalf by an tArd-Chláraitheoir shall be entitled to search the register or an index relating to the register. 25

(2) No information from the register or an index relating to the register shall be given to any person except as provided under *section 12*.

Search of register of
wills.

12.—(1) Subject to *subsections (2) and (3)*, an tArd-Chláraitheoir or a member of his or her staff authorised by him or her in that behalf shall, on application by a person (“the applicant”) to him or her in that behalf in writing and— 30

(a) on payment to him or her of the prescribed fee, search the register and the indexes thereto, as are specified in the application, or 35

(b) on payment to him or her of the prescribed fee, give the person—

(i) a copy, certified by him or her to be a true copy, or

(ii) a copy, 40

of an entry specified by the person in such register.

(2) *Subsection (1)* applies only if—

- (a) the death of the person, who made the will referred to in the entry specified, has been registered under Part 5 of the Act of 2004,
- (b) an tArd-Chláraitheoir is satisfied that civil records of the death of the person, who made the will referred to in the entry specified, are satisfactory where the death of the person occurred outside the State (other than a death registered under sections 38 or 39 of the Act of 2004), or
- (c) the applicant is the person who made the will referred to in the entry specified.

(3) A copy of an entry referred to in *subsection (1)* shall omit any reference to or particulars of a personal public service number and “true copy” in those provisions shall be construed accordingly.

15 **13.—(1)** The registration or non-registration of any wills, including codicils, pursuant to this Act shall not be evidence of and shall not provide any presumption of—

Registration or non-registration not evidence; not to be used for construction.

- (a) the existence or non-existence of any wills, including codicils, whether registered or not registered pursuant to this Act,
- (b) the validity or non-validity of any wills, including codicils, whether registered or not registered pursuant to this Act,
- (c) the execution or non-execution of any wills, including codicils, whether registered or not registered pursuant to this Act,
- (d) the revocation or non-revocation of any wills, including codicils, whether registered or not registered pursuant to this Act,
- (e) the revival or non-revival of any wills, including codicils, whether registered or not registered pursuant to this Act,
- (f) the republication or non-republication of any wills, including codicils, whether registered or not registered pursuant to this Act, or
- (g) any of the particulars entered in the register of wills, specified in the *Schedule*.

(2) The registration or non-registration of any wills, including codicils, pursuant to this Act shall not be used to construe any wills, including codicils, whether registered or not registered pursuant to this Act.

PART 4

AMENDMENTS TO CIVIL REGISTRATION ACT 2004

14.—Section 2 of the Act of 2004 is amended in subsection (1)—

Amendment of section 2 of Act of 2004.

- (a) by the insertion of the following paragraph, after the definition of “the Acts”:

“ ‘the Act of 2005’ means the *Registration of Wills Act 2006*,”

- (b) by the insertion of the following paragraph, after the definition of “registered medical practitioner”:

“ ‘register of wills’ shall be construed in accordance with *section 9* of the *Act of 2006*,”

and

- (c) by the insertion of the following paragraph, in the definition of “registrar”, after paragraph (b):

“(bb) in relation to a will or the register of wills, means a registrar within the meaning of *section 17*,”.

Amendment of section 8 of Act of 2004.

- 15.**—Section 8 of the Act of 2004 is amended in subsection (1)—

- (a) by the insertion of the following paragraph after paragraph (b):

“(bb) to extend the Civil Registration Service to wills,”

- (b) by the insertion of the following paragraph after paragraph (e):

“(ee) to establish and maintain a register and indexes for the purposes of the registration of wills,”

and

- (c) by the insertion after “to monitor the operation of this Act”, in paragraph (f), of “and the *Act of 2006*”.

Amendment of section 15 of Act of 2004.

- 16.**—Section 15 of the Act of 2004 is amended in subsection (3) by the addition after “this Act” of “and the *Act of 2006*”.

Amendment of section 17 of Act of 2004.

- 17.**—Section 17 of the Act of 2004 is amended—

- (a) in paragraph (b) of subsection (1), by the insertion after “registrars of births, stillbirths, deaths and marriages” of “and wills”,

- (b) in subsection (4), by the insertion after “under this Act” of “or the *Act of 2006*”,

- (c) in subsection (7), by the insertion after “for the purposes of this Act” of “or the *Act of 2006*”,

- (d) in paragraph (a) of subsection (10)—

(i) by the insertion after “for the purposes of this Act” of “or the *Act of 2006*”, and

(ii) by the insertion after “for the purposes of specified provisions of this Act” of “or the *Act of 2006*”,

(e) in paragraph (b) of subsection (10), by the insertion after “under this Act” of “or the *Act of 2006*”, and

5 (f) in subsection (13), by the insertion after “registrar of births, stillbirths, deaths and marriages” of “and wills”.

18.—Section 60 of the Act of 2004 is amended in subsection (1)— Amendment of section 60 of Act of 2004.

(a) by the insertion of the following paragraph, after paragraph (a):

10 “(aa) a registrar fails or refuses to register, in the register of wills specified in section 6 of the *Act of 2006*, a will or to enter in such a register one or more of the particulars required by the *Act of 2006* to be so entered, and furnished to him or her by a person pursuant to the *Act of 2006*, or”,

and

(b) by the insertion after “within the meaning of Part 3 or 5” of “or *Part 3* of the *Act of 2006*”.

20 19.—Section 69 of the Act of 2004 is amended— Amendment of section 69 of Act of 2004.

(a) by the insertion of the following subsection, after subsection (4):

25 “(4A) A registrar who, without reasonable cause, fails or refuses to register a will or to include in the relevant entry in the appropriate register any of the particulars required by the *Act of 2006* to be entered in the register in relation to the will and given to him or her by a person entitled so to do by the *Act of 2006*, is guilty of an offence.”,

30 and

(b) in subsection (13) by the insertion after “In this section ‘register’ means a register maintained under section 13” of “or *section 6* of the *Act of 2006*”.

35 20.—Section 70 of the Act of 2004 is amended in subsection (2) Amendment of section 70 of Act of 2004. by the insertion of “(4A),” between “(4),” and “(5)”.

SCHEDULE

Section 10.

PARTICULARS TO BE ENTERED IN REGISTER OF WILLS

Name and address of custodian of will.

Forename(s), surname, birth surname and address of testator.

Signature of testator consenting to the registration of the will under
Part 3.

Sex of testator.

Date of birth of testator.

Place of birth of testator.

5

Personal public service number of testator.

Forename(s), surname, address and signature of informant.

Date of registration.

Signature of registrar.