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ACT

To amend the Wills Act, 1953.

(Afrikaans text signed by the State President.)
(Assented to 2nd April, 1965.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 7 of 1953, as amended by section 1 of Act 48 of 1958 and section 20 of Act 80 of 1964

1. Section *two* of the Wills Act, 1953, is hereby amended by the substitution in sub-section (1) for the words preceding paragraph (a) of the following words:

“Subject to the provisions of sections *three* and *three bis*—”.

Insertion of section *3bis* in Act 7 of 1953.

2. The following section is hereby inserted in the Wills Act, 1953, after section *three*:

“Validity of certain wills executed in accordance with the law of certain other states. *3bis*. (1) A will, whether executed before or after the commencement of this section, shall—

- (a) not be invalid merely by reason of the form thereof, if such form complies with the law of the state or territory—
- (i) in which the will was executed;
 - (ii) in which the testator was, at the time of the execution of the will or at the time of his death, domiciled or habitually resident; or
 - (iii) of which the testator was, at the time of the execution of the will or at the time of his death, a citizen;
- (b) so far as immovable property is disposed of therein, not be invalid merely by reason of the form thereof, if such form complies with the law of the state or territory in which that property is situate;
- (c) so far as therein a power conferred by any instrument is exercised or a duty imposed by any instrument is performed, not be invalid merely by reason of the form thereof, if such form complies with the law of the state or territory in which such instrument was executed;
- (d) so far as it revokes a will or a portion of a will which by virtue of the provisions of paragraph (a), (b) or (c) is not invalid, not be invalid merely by reason of the form thereof, if such form complies with the law referred to in the paragraph in terms of which the revoked will or portion is not invalid;
- (e) not be invalid merely by reason of the form thereof, if it was executed on board a vessel or aircraft and such form complies with the law of the state or territory in which such vessel or aircraft was registered at the time of such execution, or with which it was otherwise most closely connected at that time.

(2) Any requirement of the law of any other state or territory in terms of which a testator of a particular age or nationality or having any other personal qualification is to observe special formalities in the execution of a will, or a witness to

a will is to possess certain qualifications, shall be construed as a requirement relating to form only.

(3) If there are in force in any state or territory two or more systems of law relating to the form of wills, the law to be applied for the purposes of this section shall be the law determined in accordance with any relevant rule in force in the state or territory in question or, if there is no such rule in force therein, the law with which the testator was most closely connected at the time of his death, if the matter is to be determined by reference to the circumstances prevailing at his death, or at the time of the execution of the will in any other case.

(4) The provisions of this section shall not apply in respect of—

- (a) a will made by a South African citizen otherwise than in writing; and
- (b) a will made by a person who died before the commencement of this section.

(5) The provisions of this section shall not affect the validity of a will which but for such provisions would be valid.”.

Short title and commencement.

3. This Act shall be called the Wills Amendment Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.