

Chapter 19 Reprint of this Act.



ANALYSIS

Title	2. Repeal
1. Short Title	3. Statutory substitutional gift

1958, No. 18

An Act to amend the law relating to wills

[18 September 1958]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Wills Amendment Act 1958, and shall, for the purposes of the law of New Zealand, be read together with and deemed part of the Wills Act 1837 of the United Kingdom Parliament.

2. Repeal—Section fifteen of the Wills Amendment Act 1955 is hereby amended by omitting the words “and thirty-two”, and substituting the words “thirty-two, and thirty-six”.

3. Statutory substitutional gift—The Wills Amendment Act 1955 is hereby amended by adding the following section:

“16. (1) Unless a contrary intention appears by the will, where any person is a child or other issue of the testator to whom (whether as a named or designated person or as a member of a class) any property is devised or bequeathed or appointed in terms that would enable that person to take the property for any estate or interest not determinable at or before the death of that person if that person survived the

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testator, and that person dies in the lifetime of the testator (whether before or after the testator makes the will) leaving any child or children living at the time of the death of the testator, the devise or bequest or appointment shall take effect as if the will had contained a substitutional gift devising or bequeathing or appointing the property to such of the children of that person as are living at the time of the testator's death and if more than one in equal shares.

“(2) Without restricting the manner in which a testator may show an intention to negative the operation of subsection one of this section, it is hereby declared that that subsection shall not apply—

“(a) To a devise or bequest or appointment to any person which is in any way expressed to be conditional on the person being alive at or after the time of the death of the testator or any time or event which in the events that happen is subsequent to the time of the death of the testator; or

“(b) Where any devise or bequest or appointment is in any way expressed to be conditional on the fulfilment of any other contingency and that contingency has not been fulfilled before the time of the testator's death.

“(3) This section shall not apply to—

“(a) Any specific bequest or specific appointment of any personal chattels:

“(b) Any devise or bequest or appointment to any person as one of two or more joint tenants.

“(4) In this section—

“‘Appointment’ means an appointment made by will in exercise of a general power of appointment; and also means an appointment made by will in exercise of a special power of appointment if every child in whose favour this section would operate is an object of the power; and the terms ‘appointed’ and ‘appointing’ have corresponding meanings:

“‘Child’,—

“(a) In relation to a testator, means any child (whether legitimate or illegitimate) of the testator:

“(b) In relation to any person to whom any property is devised or bequeathed or appointed as aforesaid, means a legitimate child of that person; and also, in relation to any woman, includes any illegitimate child of that woman:

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“‘Issue’, in relation to a testator, means any issue (whether legitimate or illegitimate in any generation) of the testator:

“‘Personal chattels’ means personal chattels within the meaning of the Administration Act 1952:

“‘Property’ includes any real and personal property, and any estate or interest in any property, and any debt, and any thing in action, and any other right or interest.

“(5) For the purposes of this section an illegitimate relationship between a father and his child shall not be recognised unless there is proof that the paternity of the father has been admitted by or established against the father while both the father and the child were living.

“(6) This section shall not apply to any will made before the first day of January, nineteen hundred and fifty-nine.

“(7) For the purposes of the law of New Zealand, section thirty-three of the principal Act shall not apply to any will made on or after the first day of January, nineteen hundred and fifty-nine.

“(8) For the purposes of this section every will which is re-executed or confirmed or revived by any codicil shall be deemed to have been made at the time when it was first made, and not at the time when it was re-executed or confirmed or revived.”
