

1976 Bill 24

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 24

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1976

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

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BILL 24

1976

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1976

(Assented to _____, 1976)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

The Alberta Evidence Act

1. (1) *The Alberta Evidence Act is amended by this section.*

(2) *The following heading and section are added after section 27:*

Admissibility of Previous Court Proceedings

27.1 (1) In this section,

- (a) "conviction" means a conviction
 - (i) which is not subject to appeal or further appeal, or
 - (ii) in respect of which no appeal has been taken, and
- (b) "offence" means an offence under any law in force in Canada or any part of Canada.

(2) Where

- (a) a person has been convicted of an offence anywhere in Canada, and
 - (b) the commission of that offence is relevant to any issue in a civil proceeding,
- then, whether or not that person is a party to the civil proceeding, proof of the conviction is admissible in evidence for the purpose of proving that the person committed the offence.

(3) Where a conviction is admitted in evidence under this section, the contents of the information, complaint or indictment relating to the offence for which the person was convicted is admissible in evidence.

Explanatory Notes

The Alberta Evidence Act

1. (1) This section will amend chapter 127 of the Revised statutes of Alberta 1970.

(2) This amendment will permit convictions to be introduced evidence in civil proceedings and is based on Report No. 16 the Institute of Law Research and Reform.

(4) Subject to subsection (5), the weight to be given the conviction shall be determined by the judge or jury, as the case may be.

(5) Where proof of the conviction of a person is tendered in evidence pursuant to subsection (2) in an action for defamation, the conviction of that person is conclusive evidence that he committed the offence.

The Expropriation Act

2. (1) The Expropriation Act is amended by this section.

(2) Section 13 is amended by striking out subsection (5).

(3) The following section is added after section 13:

13.1 Where the Lieutenant Governor in Council is satisfied that a refusal by an approving authority to grant a certificate of approval for a proposed expropriation is contrary to the public interest, he may by order direct the approving authority to issue a certificate of approval in such terms as he considers necessary and appropriate.

(4) Section 24, subsection (2) is amended by striking out the words "one other member as vice-chairman" and by substituting therefor the words "may appoint one or more of the other members as vice-chairmen".

(5) Section 34, subsection (2) is amended by striking out the words "offering the proposed payment," and by substituting therefor the words "receipt by the owner of the written notification given by the expropriating authority under section 29, subsection (2),".

(6) Section 62 is struck out and the following section is substituted therefor:

62. (1) Within 30 days after the certificate of approval has been registered the expropriating authority shall, subject to any agreement to the contrary, serve on the person in possession a notice that it requires the land on the date specified therein.

(2) The date specified in the notice shall be

(a) seven days from the date of service of the notice where the land expropriated is for a right of way, and

(b) in all other cases at least 90 days from the date of service of the notice.

The Expropriation Act

2. (1) This section will amend chapter 27 of the Statutes of Alberta, 1974.

(2) This subsection is re-enacted as section 13.1 by subsection (3) of this section.

(3) This section was formerly section 13, subsection (5) of the Act.

(4) This amendment will permit the appointment of more than one vice-chairman.

(5) Section 34, subsection (2) presently reads:

(2) Where no proceedings have been commenced by either party within one year of the date of offering the proposed payment, the amount of the proposed payment shall be conclusively deemed to be the full compensation to which the owner is entitled.

(6) Section 62 presently reads as follows:

62. (1) In this section, "occupied land" means a parcel of land

(a) on which the dwelling house or buildings associated therewith occupied by the occupant of the parcel is situated, and

(b) that consists of

(i) not more than four adjoining lots in one block in a city, town, new town, village or hamlet as shown on a plan duly registered in the proper land titles office, or

(ii) not more than one-quarter section of land other than land in a city, town, new town or village.

(2) After the certificate of approval has been registered, the expropriating authority may, subject to any agreement to the contrary, serve on the person in possession a notice that it requires the land on the date specified therein.

(3) The date specified in the notice shall be

(a) seven days from the date of registration of the certificate of approval where the land expropriated is other than occupied land or is for right of way, and

(b) in all other cases, at least 90 days from the date of registration of the certificate of approval.

(3) Any time after service of the notice, either party may apply to the court by originating notice on three days' notice for an adjustment of the date for possession specified in the notice referred to in subsection (1) and the court may order an adjustment in the date.

(4) Notwithstanding anything in this section, the expropriating authority shall not, except by leave of the court, be entitled to take possession

- (a) in the case of land expropriated for a right of way, until the proposed payment has been tendered, and
- (b) in all other cases, until the expiry of 30 days after the proposed payment has been tendered.

(7) *Schedule 2 is amended by adding after clause 4 the following clause:*

- 5. If you do not commence proceedings within one year of the date of receipt by you of the written notification of the proposed payment given by the expropriating authority, the amount of the proposed payment shall be conclusively deemed to be the full compensation to which you are entitled.

The Garagemen's Lien Act

3. (1) *The Garagemen's Lien Act is amended by this section.*

(2) *Section 2 is amended*

(a) *by renumbering clause (a) as clause (a.1) and by adding immediately prior thereto the following clause:*

(a) "farm vehicle" means a farm machine or other machine or equipment

- (i) that is identifiable by a manufacturer's serial number cut, embossed or otherwise permanently marked or attached thereon,
- (ii) that is used, or intended for use, in any type of farming operations, and
- (iii) that is not a motor vehicle;

(b) *as to clause (b), subclause (iii) by striking out the words "tracks or".*

(3) *The words "or farm vehicle" are added after the words "motor vehicle" wherever they appear in the following provisions:*

- section 3, subsections (1), (2) and (3);
- section 4, subsection (3);
- section 5;
- section 6, subsections (1) and (2);

(4) After service of the notice either party may apply to the court by originating notice of motion on three days' notice for an adjustment of the date for possession specified in the notice, and the court may order an adjustment in the date.

(5) Notwithstanding anything in this section, the expropriating authority shall not be entitled to take possession

(a) in the case of occupied land, other than occupied land expropriated for a right of way, until the expiry of 30 days after the proposed payment has been made, or

(b) in all other cases, until after the proposed payment has been made, except by leave of the court.

(7) Schedule 2 sets out the form of Notice of Expropriation under section 29 of the Act.

The Garagemen's Lien Act

3. (1) This section will amend chapter 155 of the Revised Statutes of Alberta 1970.

(2) (a) The addition of a definition of "farm vehicle" is consequential to the other amendments made by this section of the Bill.

(b) Section 2(b) presently reads:

(b) "motor vehicle"

(i) means a vehicle propelled by any power other than muscular power, and

(ii) includes an aeroplane, but

(iii) does not include a motor vehicle that runs only on tracks or rails;

This amendment will make it clear that tracked vehicles come within the scope of the Act.

(3) This amendment will permit the use of garagemen's liens in respect of farm vehicles as defined in the preceding subsection.

section 7, subsection (2), clauses (a) and (b);
section 8;
section 9, subsection (1).

(4) Section 3 is amended

- (a) by adding after the word "accessories" wherever it appears in the section the words "or parts",*
- (b) as to subsection (1) by adding after the words "repair or maintenance of a motor vehicle" wherever they appear in the section the words "or any part thereof",*
- (c) as to subsection (2) by striking out the word "gas" and by substituting the word "fuel", and*
- (d) as to subsection (3) by striking out the words "before surrendering possession of the motor vehicle he" and by substituting therefor the words "he retains possession of the motor vehicle or farm vehicle or".*

(5) Section 4 is amended

- (a) by striking out subsection (1) and by substituting therefor the following subsection:*

4. (1) A lien referred to in section 3 terminates on the 14th day after the day

- (a) on which possession of the motor vehicle or farm vehicle is surrendered to the owner thereof or his agent, or
- (b) on which repairs were completed to the motor vehicle or farm vehicle or any part of the motor vehicle or farm vehicle if the vehicle was not at the time of repair in the possession of the garageman, or

(c) on which the accessories or parts for the motor vehicle or farm vehicle were furnished,
as the case may be, unless on or before the 14th day the garageman files or causes to be filed a claim of lien, in Form A in the Schedule, in the office of the registration clerk together with an affidavit made by the garageman or his agent verifying the claim, which shall be in Form B in the Schedule.

and

- (b) by adding after subsection (2) the following subsection:*

(2.1) Notwithstanding any other provision of this Act, a claim of lien not registered within the time limited by subsection (1) may be registered

(4) This amendment will permit a lien for the supply of parts.
Section 3 (2) and (3) presently reads:

(2) No garageman is entitled to a lien under this Act for the price of gas, oil or grease furnished for a motor vehicle.

(3) No garageman is entitled to a lien under this Act unless before surrendering possession of the motor vehicle he obtains from

(a) the person who authorized the storage, repair, or maintenance, or his duly authorized agent, or

(b) the person who ordered that accessories be furnished for the motor vehicle, or his duly authorized agent,

an acknowledgement of indebtedness by requiring that person or his agent to sign an invoice or other statement of account.

(5) This amendment will reduce the time for filing the lien to 10 days but will permit late filing subject to intervening rights. Where repairs are made and the owner does not pick up the vehicle, the time for filing will not commence until he takes possession so that he cannot thereby defeat the lien.

at a later date and such registration has the same effect as a registration within the time limit except that it does not affect rights which have accrued prior to the late registration.

- (6) *Section 5, clause (a) is amended*
- (a) *by adding the word "and" at the end of subclause (i), and*
 - (b) *by striking out the word "and" at the end of subclause (ii) and striking out subclause (iii).*

- (7) *Form A is amended*
- (a) *by striking out the words "and accessories" and by substituting the words "accessories and parts", and*
 - (b) *by adding after the words "furnishing of accessories" the words "or parts".*

- (8) *Form C is amended*
- (a) *by striking out the word "motor" wherever it occurs, and*
 - (b) *by adding after the word "accessories" the words "or parts".*

The Pension Benefits Act

4. The Pension Benefits Act is amended by striking out section 13.

(6) Section 5 presently reads:

5. Every lien upon a motor vehicle under this Act shall be postponed to an interest in, or charge, lien or encumbrance on the motor vehicle,
- (a) that is created or arises
 - (i) in good faith,
 - (ii) without express notice of the first mentioned lien, and
 - (iii) at a time during which the motor vehicle is out of the possession of the person entitled to the lien under this Act,
 - and
 - (b) that was created or arose before the filing of the claim of lien pursuant to this Act.

(7) Form A is the "Claim of Lien" and is amended as a consequence of the amendment to section 3.

(8) Form C is the form of warrant to the Sheriff. The word "motor" is removed in the reference to "motor vehicle" with the result that the word "vehicle" alone will allow the form to be used for both motor vehicles and farm vehicles. The addition of "or parts" is a consequence of the amendment to section 3.

The Pension Benefits Act

4. This section will amend chapter 272 of the Revised Statutes of Alberta 1970. Section 13 is struck out as it is redundant to the proposed section 44 of The Trustee Act. Section 13 presently reads:

13. (1) In this section,
- (a) "employee" means an employee or former employee who is a member of a pension plan, and
 - (b) "employer" includes the trustee or insurer under a pension plan.
- (2) Where in accordance with the terms of a pension plan an employee has designated a person or persons to receive a benefit payable under the plan in the event of the employee's death,
- (a) the employer's liability to provide the benefit is discharged upon payment to the person or persons of the amount of the benefit, and
 - (b) the person or persons may upon the death of the employee enforce payment of the benefit, but the employer is entitled to set up any defence that he could have set up against the employee or his personal representatives.
- (3) An employee may from time to time alter or revoke a designation made under a pension plan, but any such alteration or revocation may be made only in the manner set forth in the plan.
- (4) This section does not apply to a designation of a beneficiary to which The Alberta Insurance Act applies.

The Trustee Act

5. (1) *The Trustee Act is amended by this section.*

(2) *Section 44 is struck out and the following is substituted:*

44. (1) In this section,

(a) "participant" means a person who is entitled to designate another person to receive a benefit payable under a plan on the participant's death;

(b) "plan" means

(i) a pension, retirement, welfare or profit-sharing fund, trust, scheme, contract or arrangement for the benefit of employees, former employees, agents or former agents of an employer or their dependants or beneficiaries, or

(ii) a fund, trust, scheme, contract or arrangement for the payment of an annuity for life or for a fixed or variable term,

created before or after the commencement of this section;

(c) "will" has the same meaning as in *The Wills Act*.

(2) A participant may designate a person to receive a benefit payable under a plan on the participant's death

(a) by an instrument signed by him or signed on his behalf by another person in his presence and by his direction, or

(b) by will,

and may revoke the designation by either of those methods.

(3) A designation in a will is effective only if it refers to the plan either generally or specifically.

(4) A revocation in a will of a designation made by an instrument is effective to revoke the designation made by the instrument only if the revocation refers to the plan either generally or specifically.

(5) Notwithstanding *The Wills Act*, a later designation revokes an earlier designation, to the extent of any inconsistency.

(6) Revocation of a will is effective to revoke a designation in the will.

(7) A designation or revocation contained in an instrument purporting to be a will is not invalid by reason only of the fact that the instrument is invalid as a will.

(8) A designation in an instrument that purports to be but is not a valid will, is revoked by an event that would have the effect of revoking the instrument if it had been a valid will.

The Trustee Act

5. (1) This section will amend chapter 373 of the Revised Statutes of Alberta 1970.

(2) Section 44 presently reads:

44. (1) In this section,
- (a) "designation" means a written instrument to which subsection (2) refers;
 - (b) "employer" includes the trustee under a plan;
 - (c) "participant" means a person who is participating in a plan established by an employer and who
 - (i) is or has been employed by the employer, or
 - (ii) is an agent or former agent of the employer;
 - (d) "plan" means a pension, retirement, welfare or profit-sharing fund, scheme or arrangement, for the benefit of employees, former employees, agents, and former agents of an employer, or any of them.
- (2) Where, in accordance with the terms of a plan, a participant, by a written instrument signed by him or on his behalf by another person in his presence and by his direction, has designated a person to receive a benefit payable under the plan in the event of the death of the participant,
- (a) the employer is discharged on paying to the person designated the amount of the benefit, and
 - (b) subject to subsection (3), the person designated may, on the death of the participant, enforce payment of the benefit to himself for his own use.
- (3) Where a person designated under subsection (2) seeks to enforce payment of the benefit, the employer may set up any defence that he could have set up against the participant or his personal representative.
- (4) A participant may alter or revoke a designation made under a plan, but, subject to subsection (7), any such alteration or revocation may be made only in the manner set forth in the plan.
- (5) Where a designation is contained in a will, the designation shall, notwithstanding section 22 of The Wills Act, have effect from the time of its execution.
- (6) A designation contained in an instrument purporting to be a will is not invalid by reason only of the fact that the instrument is invalid as a testamentary instrument, and it may be revoked or altered by any subsequent designation.
- (7) Where a designation is contained in a will, and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.
- (8) This section does not apply to a designation of a beneficiary to which The Alberta Insurance Act applies.
- (9) The Crown is bound by this section and section 43.

The new section 44 is based on the Uniform Retirement Plan Beneficiaries Act recently adopted by the Uniform Law Conference of Canada. It replaces a uniform provision adopted by that Conference in 1957 and which is the same as the present section 44 above except for the addition of subsection (9).

(9) Revocation of a designation does not revive an earlier designation.

(10) Notwithstanding *The Wills Act*, a designation or revocation in a will is effective from the time when the will is signed.

(11) After the death of a participant who has made a designation that is in effect at the time of his death, the person designated may enforce payment of the benefit payable to him under the plan, but the person against whom the payment is sought to be enforced may set up any defence that he could have set up against the participant or his personal representative.

(12) Where this section is inconsistent with a plan, this section applies unless

(a) the inconsistency relates to a designation made or proposed to be made after the making of a benefit payment, and

(b) the benefit payment so made would have been different if the designation had been made before the benefit payment was made,

in which case the plan applies.

(13) This Act does not apply to a contract or to a designation of a beneficiary to which *The Alberta Insurance Act* applies.

(14) The Crown is bound by this section.

The Wills Act

6. (1) *The Wills Act is amended by this section.*

(2) *Section 43, subsection (1) is amended by striking out the words "This Act applies" and by substituting therefor the words "Unless otherwise expressly provided, the provisions of Parts 1 and 2 apply".*

(3) *The following Part and Schedule are added after section 43:*

PART 4

INTERNATIONAL WILLS

44. In this Part,

(a) "Convention" means the Convention Providing a Uniform Law on the Form of an International Will, a copy of which is set out in the Schedule to this Act;

(b) "effective date" means the latest of

(i) the day on which, in accordance with Article XI of the Convention, the Convention enters into force, or

The Wills Act

6. (1) This section will amend chapter 393 of the Revised Statutes of Alberta 1970.

(2) This section will amend the application section to accommodate the addition of an additional new Part 4 to the Act.

(3) This amendment incorporates the provisions relating to international wills recommended by the Uniform Law Conference of Canada.

44. Definitions.

- (ii) where, at the time of signature or ratification, the Government of Canada has declared that the Convention extends to Alberta, the day that is six months after the date on which the Government of Canada deposits with the Government of the United States of America an instrument of ratification of the Convention, or
- (iii) the day that is six months after the date on which the Government of Canada submits to the Government of the United States of America a declaration that the Convention extends to Alberta;
- (c) "international will" means a will that has been made in accordance with the rules regarding an international will set out in the Annex to the Convention;
- (d) "registration system" means a system for the registration, or the registration and safekeeping, of international wills established under section 51 or pursuant to an agreement entered into under section 52;
- (e) "registrar" means the person responsible for the operation and management of the registration system.

45. On, from and after the effective date, the Convention is in force in Alberta and applies to wills as the law of Alberta.

46. On, from and after the effective date, the uniform law on the form of an international will set out in the Annex to the Convention is law in Alberta.

47. Nothing in this Part detracts from or affects the validity of a will that is valid under the laws in force in Alberta other than this Part.

48. All active members of The Law Society of Alberta are designated as persons authorized to act in connection with international wills.

49. The Provincial Secretary shall request the Government of Canada to ratify the Convention and to submit a declaration to the Government of the United States of America declaring that the Convention extends to Alberta.

50. As soon as the effective date is determined, the Provincial Secretary shall publish in the Gazette a notice indicating the date that is the effective date for the purposes of this Part.

51. The Attorney General shall, in accordance with the regulations, establish a system of

- (a) registration, or

45. Application of convention.

46. Rules regarding an international will.

47. Validity of wills under other laws.

48. Authorized persons.

49. Request to ratify convention.

50. Effective date determined.

51. Registration system.

(b) registration and safekeeping,
of international wills.

52. With the approval of the Lieutenant Governor in Council, the Attorney General for and on behalf of Her Majesty in right of Alberta may enter into an agreement with the government of another province or a Minister or official of the government of another province relating to the establishment of a system of registration or registration and safekeeping of international wills for Alberta and that other province, and for the joint operation of that system, or relating to the exchange of information contained in a system established under section 51 and a similar system established for that other province.

53. Where a registration system is established pursuant to an agreement entered into under section 52, the Attorney General is relieved of his obligation under section 51.

54. (1) Information contained in the registration system concerning the international will of a testator shall not be released from the system except in accordance with an agreement made under section 52 or except to a person who satisfies the registrar that

- (a) he is the testator, or
- (b) he is a person who is authorized by the testator to obtain such information, or
- (c) the testator is dead and the person is a proper person to have access to the information.

(2) Where the registration system provides for the safekeeping of international wills, an international will of a testator deposited in the system shall not be released except to a person who satisfies the registrar that

- (a) he is the testator, or
- (b) he is a person who is authorized by the testator to obtain the will, or
- (c) the testator is dead and the person is a proper person to have custody of the will for the purposes of the administration of the estate of the testator or the agent of such a person.

55. (1) Where a member of The Law Society of Alberta has acted during any month in respect of one or more international wills in his capacity as a person authorized to act in connection with international wills, the member shall, on or before the 10th day of the next month, file or cause to be filed with the registrar, in a sealed envelope, a list on a form prescribed under the regulations, certified by him or his agent, setting out the name, address and description of the testator and the date of execution of each international will in respect of which he so acted, and the registrar shall enter the information in the registration system.

52. Agreements re registration system.

53. Joint system in lieu of provincial system.

54. Disclosure of information in system and release of will held for safekeeping.

55. Use of registration system.

(2) The failure of a member of The Law Society of Alberta to comply with subsection (1) in respect of an international will does not affect the validity of the international will.

56. The Lieutenant Governor in Council may make regulations respecting the operation, maintenance and use of the registration system, and without limiting the generality of the foregoing, may make regulations

- (a) prescribing forms for use in the system, and
- (b) prescribing fees for searches of the registration system.

SCHEDULE

CONVENTION PROVIDING A UNIFORM LAW ON THE FORM OF AN INTERNATIONAL WILL The States signatory to the present Convention,

DESIRING to provide to a greater extent for the respecting of last wills by establishing an additional form of will hereinafter to be called an "international will" which, if employed, would dispense to some extent with the search for the applicable law;

HAVE RESOLVED to conclude a Convention for this purpose and have agreed upon the following provisions:

Article I

1. Each Contracting Party undertakes that not later than six months after the date of entry into force of this Convention in respect of that Party it shall introduce into its law the rules regarding an international will set out in the Annex to this Convention.

2. Each Contracting Party may introduce the provisions of the Annex into its law either by reproducing the actual text, or by translating it into its official language or languages.

3. Each Contracting Party may introduce into its law such further provisions as are necessary to give the provisions of the Annex full effect in its territory.

4. Each Contracting Party shall submit to the Depositary Government the text of the rules introduced into its national law in order to implement the provisions of this Convention.

Article II

1. Each Contracting Party shall implement the provisions of the Annex in its law, within the period provided for in the preceding article, by designating the persons

56. Regulations.

who, in its territory, shall be authorized to act in connection with international wills. It may also designate as a person authorized to act with regard to its nationals its diplomatic or consular agents abroad insofar as the local law does not prohibit it.

2. The Party shall notify such designation, as well as any modifications thereof, to the Depositary Government.

Article III

The capacity of the authorized person to act in connection with an international will, if conferred in accordance with the law of a Contracting Party, shall be recognized in the territory of the other Contracting Parties.

Article IV

The effectiveness of the certificate provided for in Article 10 of the Annex shall be recognized in the territories of all Contracting Parties.

Article V

1. The conditions requisite to acting as a witness of an international will shall be governed by the law under which the authorized person was designated. The same rule shall apply as regards an interpreter who is called upon to act.

2. Nonetheless no one shall be disqualified to act as a witness of an international will solely because he is an alien.

Article VI

1. The signature of the testator, of the authorized person, and of the witnesses to an international will, whether on the will or on the certificate, shall be exempt from any legalization or like formality.

2. Nonetheless, the competent authorities of any Contracting Party may, if necessary, satisfy themselves as to the authenticity of the signature of the authorized person.

Article VII

The safekeeping of an international will shall be governed by the law under which the authorized person was designated.

Article VIII

No reservation shall be admitted to this Convention or to its Annex.

Article IX

1. The present Convention shall be open for signature at Washington from October 26, 1973, until December 31, 1974.
2. The Convention shall be subject to ratification.
3. Instruments of ratification shall be deposited with the Government of the United States of America, which shall be the Depositary Government.

Article X

1. The Convention shall be open indefinitely for accession.
2. Instruments of accession shall be deposited with the Depositary Government.

Article XI

1. The present Convention shall enter into force six months after the date of deposit of the fifth instrument of ratification or accession with the Depositary Government.
2. In the case of each State which ratifies this Convention or accedes to it after the fifth instrument of ratification or accession has been deposited, this Convention shall enter into force six months after the deposit of its own instrument of ratification or accession.

Article XII

1. Any Contracting Party may denounce this Convention by written notification to the Depositary Government.
2. Such denunciation shall take effect twelve months from the date on which the Depositary Government has received the notification, but such denunciation shall not affect the validity of any will made during the period that the Convention was in effect for the denouncing State.

Article XIII

1. Any State may, when it deposits its instrument of ratification or accession or at any time thereafter, declare, by a notice addressed to the Depositary Government, that this Convention shall apply to all or part of the territories for the international relations of which it is responsible.
2. Such declaration shall have effect six months after the date on which the Depositary Government shall have received notice thereof or, if at the end of such period the Convention has not yet come into force, from the date of its entry into force.

3. Each Contracting Party which has made a declaration in accordance with paragraph 1 of this Article may, in accordance with Article XII, denounce this Convention in relation to all or part of the territories concerned.

Article XIV

1. If a State has two or more territorial units in which different systems of law apply in relation to matters respecting the form of wills, it may at the time of signature, ratification, or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them, and may modify its declaration by submitting another declaration at any time.

2. These declarations shall be notified to the Depositary Government and shall state expressly the territorial units to which the Convention applies.

Article XV

If a Contracting Party has two or more territorial units in which different systems of law apply in relation to matters respecting the form of wills, any reference to the internal law of the place where the will is made or to the law under which the authorized person has been appointed to act in connection with international wills shall be construed in accordance with the constitutional system of the Party concerned.

Article XVI

1. The original of the present Convention, in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Government of the United States of America, which shall transmit certified copies thereof to each of the signatory and acceding States and to the International Institute for the Unification of Private Law.

2. The Depositary Government shall give notice to the signatory and acceding States, and to the International Institute for the Unification of Private Law, of:

- (a) any signature;
- (b) the deposit of any instrument of ratification or accession;
- (c) any date on which this Convention enters into force in accordance with Article XI;
- (d) any communication received in accordance with Article I, paragraph 4;
- (e) any notice received in accordance with Article II, paragraph 2;

- (f) any declaration received in accordance with Article XIII, paragraph 2, and the date on which such declaration takes effect;
- (g) any denunciation received in accordance with Article XII, paragraph 1, or Article XIII, paragraph 3, and the date on which the denunciation takes effect;
- (h) any declaration received in accordance with Article XIV, paragraph 2, and the date on which the declaration takes effect.

ANNEX

UNIFORM LAW ON THE FORM OF AN INTERNATIONAL WILL

Article 1

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.

2. If the will consists of several sheets, each sheet shall be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

Article 7

1. The date of the will shall be the date of its signature by the authorized person.

2. This date shall be noted at the end of the will by the authorized person.

Article 8

In the absence of any mandatory rule pertaining to the safekeeping of the will, the authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator the place where he intends to have his will kept shall be mentioned in the certificate provided for in Article 9.

Article 9

The authorized person shall attach to the will a certificate in the form prescribed in Article 10 establishing that the obligations of this law have been complied with.

Article 10

The certificate drawn up by the authorized person shall be in the following form or in a substantially similar form:

CERTIFICATE

(Convention of October 26, 1973)

1. I, (name, address and capacity), a person authorized to act in connection with international wills
2. Certify that on (date) at (place)
3. (testator) (name, address, date and place of birth)
in my presence and that of the witnesses
4. (a) (name, address, date and place of birth)
(b) (name, address, date and place of birth)
has declared that the attached document is his will and that he knows the contents thereof.
5. I furthermore certify that:
6. (a) in my presence and in that of the witnesses
 - (1) the testator has signed the will or has acknowledged his signature previously affixed.
 - *(2) following a declaration of the testator stating that he was unable to sign his will for the following reason
— I have mentioned this declaration on the will
*— the signature has been affixed by
..... (name, address)
7. (b) the witnesses and I have signed the will;
8. *(c) each page of the will has been signed by
..... and numbered;
9. (d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;
10. (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;
11. *(f) the testator has requested me to include the following statement concerning the safekeeping of his will:
.....
.....
12. PLACE
13. DATE
14. SIGNATURE and, if necessary, SEAL

*To be completed if appropriate.

Article 11

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

Article 12

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

Article 13

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

Article 14

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

Article 15

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

Commencement

7. (1) This Act, except sections 51 to 55 of The Wills Act as enacted by section 6, subsection (3) of this Act, comes into force of the day upon which it is assented to.

(2) Sections 51 to 55 of The Wills Act, as enacted by section 6, subsection (3) of this Act, come into force on a date to be fixed by Proclamation.