



An Bille um Chlárú Uachtanna, 2021
Registration of Wills Bill 2021

Mar a tionscnaíodh

As initiated



AN BILLE UM CHLÁRÚ UACHTANNA, 2021
REGISTRATION OF WILLS BILL 2021

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SCHEDULE

PARTICULARS TO BE ENTERED IN REGISTER OF WILLS

ACTS REFERRED TO

Civil Registration Act 2004 (No. 3)

Electronic Commerce Act 2000 (No. 27)

Social Welfare (Consolidation) Act 1993 (No. 27)

Succession Act 1965 (No. 27)



AN BILLE UM CHLÁRÚ UACHTANNA, 2021
REGISTRATION OF WILLS BILL 2021

Bill

entitled

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 relating to the Civil Registration Service and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL 10

Short title and collective citation

1. (1) This Act may be cited as the Registration of Wills Act 2021.
(2) This Act and the Civil Registration Act 2004 may be cited together as the Civil Registration Acts 2004 and 2021.

Commencement 15

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.

Interpretation

3. (1) In this Act, except where the context otherwise requires— 20
“Act of 1965” means the Succession Act 1965;
“Act of 2004” means the Civil Registration Act 2004;
“*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; 25
“Civil Registration Service” shall be construed in accordance with section 8 of the Act of 2004;

“Minister” means Minister for Health;

“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*);

“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;

“will” shall be construed in accordance with section 3 of the Act of 1965. 15

(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,
- (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, 20
- (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. 25

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, 30
- (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. 35

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

- (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 thereunder. 5

Expenses of Minister and Minister for Finance

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.
- (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. 10

PART 2

ADMINISTRATION

Register

6. (1) There shall be established, where appropriate, and maintained by *an tArd-Chláraritheoir* a register of wills (which shall be known, and is referred to in this Act, as the register of wills). 15
- (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 form and of being used to make a legible copy or reproduction of an entry in the register. 20
- (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-Chláraritheoir*, a person authorised in that behalf by *an tArd-Chláraritheoir*, a Superintendent Registrar, an authorised officer or a registrar. 25

Correction of errors at request of testator

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-Chláraritheoir* in writing a correction or addition to that entry in the register of wills may, if *an tArd-Chláraritheoir* so directs, be made by but only by a person authorised in that behalf by him or her. 30

Annual Report

8. (1) *An tArd-Chláraritheoir* shall, not later than 30 June in each year, beginning with the year 2021, prepare a report in writing (in 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. 35
- (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 each House of the Oireachtas.

PART 3

REGISTRATION OF WILLS

Definitions (*Part 3*)

5

9. In this Part, “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— 10
- (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
 - (c) there, signing the register in the presence of the registrar. 15
- (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.
- (3) One or more wills, including codicils, made by the same testator may be registered or re-registered under this section. 20
- (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.
- (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)*. 25

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.
- (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*. 30

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— 35

- (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
- (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, 5
 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, 10
 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 15
 particulars of a personal public service number and “true copy” in those provisions shall be construed accordingly.

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

- 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— 20
- (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 25
 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 30
 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 35
 not registered pursuant to this Act.

PART 4

AMENDMENTS TO CIVIL REGISTRATION ACT 2004

Amendment of section 2 of Act of 2004

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

(a) by the insertion of the following paragraph, after the definition of “the Acts”: 5

“ ‘Act of 2021’ means the *Registration of Wills Act 2021*;”,

(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 2021*”, 10

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.”. 15

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): 20

“(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 2021*”. 25

Amendment of section 15 of Act of 2004

16. Section 15 of the Act of 2004 is amended in subsection (3) by the insertion of “and the *Act of 2021*” after “this Act”.

Amendment of section 17 of Act of 2004

17. Section 17 of the Act of 2004 is amended— 30

(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 2021*”,

- (c) in subsection (7), by the insertion after “for the purposes of this Act” of “or the *Act of 2021*”,
- (d) in paragraph (a) of subsection (10)—
 - (i) by the insertion after “for the purposes of this Act” of “or the *Act of 2021*”,
and 5
 - (ii) by the insertion after “for the purposes of specified provisions of this Act” of
“or the *Act of 2021*”,
- (e) in paragraph (b) of subsection (10), by the insertion after “under this Act” of “or
the *Act of 2021*”, and
- (f) in subsection (13), by the insertion after “registrar of births, stillbirths, deaths and 10
marriages” of “and wills”.

Amendment of section 60 of Act of 2004

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

- (a) by the insertion of the following paragraph, after paragraph (a):
 - “(aa) a registrar fails or refuses to register, in the register of wills 15
specified in section 6 of the *Act of 2021*, a will or to enter in such a
register one or more of the particulars required by the *Act of 2021*
to be so entered, and furnished to him or her by a person pursuant
to the *Act of 2021*, or”,
- and 20
- (b) by the insertion after “within the meaning of Part 3 or 5” of “or *Part 3* of the *Act
of 2021*”.

Amendment of section 69 of Act of 2004

19. Section 69 of the Act of 2004 is amended—

- (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 2021* 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 2021*, 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 2021*”.

Amendment of section 70 of Act of 2004

20. Section 70 of the Act of 2004 is amended in subsection (2) by the insertion of “(4A),” 35
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.	5
Signature of testator consenting to the registration of the will under <i>Part 3</i> .	
Sex of testator.	
Date of birth of testator.	
Place of birth of testator.	
Personal public service number of testator.	10
Forename(s), surname, address and signature of informant.	
Date of registration.	
Signature of registrar.	

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir leis an tSeirbhís um Chlárú Sibhialta a leathnú chuig clárú faisnéise áirithe maidir le huachtanna agus chun na gcríoch sin d'athmheas an dlí a bhaineann leis an tSeirbhís um Chlárú Sibhialta agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Na Seanadóirí Victor Boyhan, Mícheál Mac Dubhghaill, Sharon Keogan, Rónán Mullen, David Norris agus Gearóid Ó Creachmhaoil a thug isteach,

29 Meán Fómhair, 2021

BILL

(as initiated)

entitled

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 relating to the Civil Registration Service and to provide for related matters.

Introduced by Senators Victor Boyhan, Michael McDowell, Sharon Keogan, Rónán Mullen, David Norris and Gerard P. Craughwell,

29th September, 2021

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