

## Registration Act, 1908

### Part IX - Of the Deposit of Wills

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Anytestator may, either personally or by duly authorized agent, deposit with anyRegistrar his will in a sealed cover superscribed with the name of the testatorand that of his agent (if any) and with a statement of the nature of thedocument.

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#### Section 43 - Procedure on deposit of wills

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(1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

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#### Section 44 - Withdrawal of sealed cover deposited under section 42

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If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

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#### Section 45 - Proceedings on death of depositor

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(1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

### STATE AMENDMENTS

#### 1 Goa:

In section 45,--

(a) in sub-section (1), for the words, letters and figure "cause the contents thereof to be copied into his Book No. 3", the words, letters and figure "cause a true copy of the contents thereof to be made and filed in his Book No. 3" shall be substituted;

(b) in sub-section (2), for the words "copy has been made", the words "true copy has been filed" shall be substituted.

#### 2 Karnataka:

Amendments to section 45 are the same as in Kerala.

#### 3 Kerala:

In section 45,--

(i) in sub-section (1), for the words "cause the contents thereof to be copied into his Book No. 3", substitute the words "cause a true copy of the contents thereof to be made and filed in his Book No. 3";

(ii) in sub-section (2), for the words "copy has been made", substitute the words "true copy has been filed".

4 Orissa:

Amendments to section 45 are the same as in Kerala.

5 Pondicherry:

Section 52(5) of the Act as amended in Pondicherry gives powers to the State Government to specify classes of documents with reference to which certain other sections shall have modified application, section 45 is one of them:

"In section 45, in sub-section (1), for the words "cause the contents thereof to be copied into his Book No. 3", words "cause a true copy thereof to be made and filed in his Book No. 3", shall be substituted; and in sub-section (2) for the words "copy has been made", words "true copy has been filed" shall be substituted.

6 Tripura:

Amendments to section 45 are the same as in Kerala.

Tamil Nadu and West Bengal:

For modification of section 45, see Schedule to Act as inserted by Tamil Nadu Act 21 of 1966 and West Bengal Act 17 of 1978.

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1. Vide Goa Act 24 of 1985, section 3 (w.e.f. 5-12-1985).
  2. Vide Karnataka Act 55 of 1976, section 4 (w.e.f. 24-10-1976).
  3. Vide Kerala Act 7 of 1963, section 5 (w.e.f. 22-2-1968).
  4. Vide Orissa Act 14 of 1989, section 4 (w.e.f. 19-9-1989).
  5. Vide Pondicherry Act 17 of 1970, Schedule Item (1) (w.e.f. 1-11-1970).
  6. Vide Tripura Act 7 of 1982, section 4 (w.e.f. 1-1-1983).
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## **Section 46 - Saving of certain enactments and powers of Courts**

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(1) Nothing hereinbefore contained shall affect the provisions of section 259 of the Indian Succession Act, 1865, or of section 81 of the Probate and Administration Act, 1881, or the power of any Court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

## **STATE AMENDMENTS**

1Goa:

In section 46,--

(a) for the words "unless the will has been already copied", the words "unless a true copy of the will has already been filed" shall be substituted;

(b) for the words, letters and figure "cause the will to be copied into his Book No. 3", the words, letters and figure "cause a true copy of the will to be made and filed in his Book No. 3" shall be substituted.

2Karnataka:

Amendments to section 46 are the same as in Kerala.

3Kerala

In section 46, in sub-section (2),--

(a) for the words "unless the will has been already copied", substitute the words "unless a true copy of the will has already been filed"; and

(b) for the words "cause the will to be copied into Book No. 3", substitute the words "cause a true copy of the will to be made and filed in his Book No. 3".

4Orissa:

Amendments to section 46 are the same as in Kerala.

5Pondicherry:

With reference to documents specified by rules made under sub-section (3) of section 52 as obtaining in Kerala, section 46 shall stand modified as follows:--

In sub-section (2) of section 46, for the words "unless the will has been already copied" and the words "cause the will to be copied into his Book No. 3", words "unless the true copy of the will has already been filed" and "cause a true copy to be made and filed in his Book No. 3" shall respectively be substituted.

6Tripura:

Amendments are the same as in Kerala, except that for the word "filed", the word "pasted" has been used.

Tamil Nadu and West Bengal:

For modification of section 46, see Schedule as inserted by Tamil Nadu Act 21 of 1966 and West Bengal Act 17 of 1978.

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1. Vide Goa Act 24 of 1985, section 4 (w.e.f. 5-12-1985).

2. Vide Karnataka Act 55 of 1976, section 5 (w.e.f. 24-10-1976).

3. Vide Kerala Act 7 of 1968, section 6 (w.e.f. 22-2-1968).

4. Vide Orissa Act 14 of 1989, section 5 (w.e.f. 19-9-1989).

5. Vide Pondicherry Act 17 of 1970, Schedule Item 2 (w.e.f. 1-11-1970).

6. Vide Tripura Act 7 of 1982, section 5 (w.e.f. 1-1-1983).

