

Succession Law, 5725 – 1965

Chapter Five: Succession Order and Probate Order

65A. National Supervisor and Registrar for Matters of Succession

(Amendment: 5758 – 1998)

(a) The Administrator General, as specified in section 2 of the Administrator General Law, 5728 – 1978, will be the national supervisor for matters of succession (hereinafter – the National Supervisor), and the Deputy Administrator General shall be the Deputy National Supervisor.

(b) Each Assistant Administrator General, who is qualified to be a Magistrate's Court judge, shall be a Registrar for Matters of Succession.

(c) The Minister of Justice may, in addition to the registrars pursuant to subsection (b), appoint a state employee subordinate to the Administrator General, who is qualified to be a Magistrate's Court judge, to be a Registrar for Matters of Succession.

(d) The Minister of Justice shall set forth, in a notice in the Official Gazette, the areas of activity of the Registrars for Matters of Succession.

(e) The names of Assistant Administrator Generals who are Registrars for Matters of Succession pursuant to the provisions of subsection (b) and the names of the Registrars for Matters of Succession who are appointed pursuant to subsection (c) shall be published in the Official Gazette.

66. Declaration of rights of the heirs (Amendment: 5758 – 1998)

(a) The Registrar for Matters of Succession may declare the rights of the heirs: on intestacy - by a succession order; on testate succession - by a probate order (hereinafter – probate).

(b) Where the deceased has disposed of part of his property by will, probate shall be granted in respect of that part and a succession order in respect of the remainder.

67. Objections (Amendment: 5758 – 1998)

Where a petition is made for a succession order or probate, the Registrar for Matters of Succession shall give public notice thereof and fix a suitable time of not less than 14 days for filing objections; any person interested in the matter may file an objection within the time fixed and so long as an order has not been issued.

67A. Issuing a succession order or probate by the Court (Amendment: 5758 – 1998)

(a) Notwithstanding the provisions of section 66(a), a petition for a succession order or probate that was filed with the Registrar for Matters of Succession shall be forwarded to the Court in each of the following instances:

- (1) An objection has been filed to the petition;
- (2) The State or an institution thereof is a party to the petition;
- (3) The Attorney General or his representative deems it proper to initiate a proceeding in respect of the petition or to join the proceedings;
- (4) The Administrator General represents a ward, a minor, or a missing person in the petition;
- (5) The petition is to probate an oral will, according to section 23;
- (6) The petition is to probate a will that has a defect or deficiency, according to section 25;
- (7) The succession is subject to the provisions of Chapter Seven;

(8) The Registrar for Matters of Succession deems it proper to transfer the petition to the Court.

(b) A petition that is transferred to the Court pursuant to subsection (a) shall be deemed a claim pursuant to section 1 of the Court for Family Matters Law, 5755 – 1995, and the Court may declare the rights of the heirs as set forth in section 66.

(c) Where the Court issues a succession order or probate pursuant to this section, a copy of the order shall be forwarded to the Registrar for Matters of Succession for recording pursuant to section 73D.

68. Evidence (Amendment: 5758 – 1998)

(a) The fact and time of the death of a person shall be proven by a death certificate or declaration of death, unless the Court or the Registrar for Matters of Succession, for special reasons in writing, permits them to be proven otherwise.

(b) A will other than an oral will shall be proven by the filing of the original document; where it is proved that the original was destroyed in a manner or under circumstances which do not constitute revocation of the will, or that it is impossible to produce the original, the Court may permit proof of the will by producing a copy of the original document or in any other manner.

69. Contents of succession order and probate

(a) A succession order will declare the names of the heirs and the respective proportionate share of each heir in the estate.

(b) Probate shall declare a will valid except for those provisions which the Court has determined to be void.

70. Changes after death of the decedent

(a) Where an heir dies after the death of the decedent but before the order is issued, or when some other change occurs during this period, the order shall specify the particulars referred to in section 69 as they were at the time the order is issued.

(b) Where an administrator is appointed, it shall be stated in the succession order or probate.

71. Legal power of succession order and probate

A succession order or probate shall be valid against all persons so long as it has not been amended or cancelled.

72. Amendment and cancellation of succession order and probate

(Amendment: 5758 – 1998)

(a) The Registrar for Matters of Succession or the Court that issued a succession order or probate may, based on the petition of an interested party, amend or cancel it based on facts or pleadings that were not available at the time the order was issued originally; However if the Registrar for Matters of Succession decides not to take into account any fact or pleading the petitioner could have brought before the order was issued, or could have brought afterwards, and did not do so at the first reasonable opportunity, the Registrar shall transfer the petition to the Court.

(b) Where a succession order or probate is amended or cancelled according to subsection (a), the Registrar for Matters of Succession shall give public notice thereof and to the heirs at law, or to the beneficiaries according to the will.

73. Protection of *bona fide* purchaser

Whoever purchased rights in good faith and for consideration in reliance on a succession order or probate that was valid at that time, or fulfilled an obligation in good faith based on such an order, such right shall not be cancelled and such obligation need not be fulfilled again even if the order was subsequently amended or cancelled.

73A. Authority of the National Supervisor and Deputy National Supervisor (Amendment: 5758 –1998)

(a) The National Supervisor shall determine the work procedures of the Registrars for Matters of Succession.

(b) The authority vested to the National Supervisor according to this Law are vested to the Deputy National Supervisor; the National Supervisor may give the Deputy National Supervisor instructions regarding the exercise of his authority.

73B. Non-dependency (Amendment: 5758 –1998)

(a) In fulfilling his duties according to this Law, the Registrar for Matters of Succession shall subject only to the authority of the law.

(b) The Registrar for Matters of Succession shall not serve as a representative of the Attorney General in matters he handled in any legal proceeding according to this Law.

73C. Investigative powers (Amendment: 5758 –1998)

The Registrar for Matters of Succession shall have the same powers as given to a commission of inquiry pursuant to sections 9 to 11 of the Commissions of Inquiry Law, 5729 – 1968, to the extent necessary to carry out his duties under this Law.

73D. National registry (Amendment: 5758 –1998)

The National Supervisor shall maintain a national registry of orders of succession and probate, of petitions for succession orders and probate, and of wills deposited pursuant to section 21; the particulars of the registry and its administration shall be set forth in Regulations.

74. Costs (Amendment: 5758 –1998)

The costs involved in any proceedings under this chapter shall be in such sum as the Court or the Registrar for Matters of Succession shall determine and shall be borne by the estate unless the Court or the Registrar for Matters of Succession directs that they shall be borne, entirely or partially, by another party.

75. Submission of will to Registrar for Matters of Succession

(Amendment: 5758 – 1998)

(a) Whoever holds a will must submit the original document or a certified copy thereof to the Registrar for Matters of Succession immediately upon becoming aware of the death of the testator.

(b) Anyone who violates the provisions of this section liable to imprisonment for three months or a fine.

76. Notice of will (Amendment: 5758 –1998)

Where a will or a memorandum of an oral will is deposited with the Registrar for Matters of Succession or where a will is handed over to the Registrar for Matters of Succession pursuant to section 75, and no petition for probate has been made within three months from the date of death of the testator or delivery of the will as aforesaid, whichever is the later, the Registrar for Matters of Succession shall give notice thereof to the beneficiaries according to the will as well as public notice thereof; the details of the public notice shall be set forth in Regulations.

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Chapter Three: Deposit, Making and Delivery of Wills

6. Deposit of will

(a) A person wishing to deposit his will at the Registrar for Matters of Succession shall file a written petition to the Registrar for Matters of Succession.

(b) The petitioner shall be summoned to appear before the Registrar for Matters of Succession, to be questioned as to his identity and to deliver the will in a closed envelope, to be sealed with wax and the seal of the Registrar for Matters of Succession affixed thereto.

(c) The identity and address of the person depositing the will, the date of deposit, before whom the will was made, to the extent known, shall be recorded on the envelope and signed by the Registrar for Matters of Succession and by the person depositing the will.

(d) The deposit of the will shall be registered in the national registry and the person depositing the will shall receive confirmation of the deposit of the will.

(e) The provisions of this regulation shall apply, *mutatis mutandis*, on the deposit of a memorandum as set forth in section 23(b) of the Law, provided that the names and addresses of the witnesses shall also be recorded on the envelope.

(f) A person who deposited his will with the Registrar for Matters of Succession may retrieve it upon his written petition; the Registrar for Matters of Succession shall inquire as to the identity of the petitioner,

hand him his will upon signed confirmation of receiving the will, and will notify the national registry; the record of the deposit shall be deleted from the national registry.

7. Making a will before an authority

(a) A person wishing to make a will before a judge, a court's registrar, a member of a religious court, or a Registrar for Matters of Succession (hereinafter – authority), shall file a written petition with the authority, detailing whether the will is to be oral or in writing.

(b) A will may be made before a judge, a court's registrar, a Registrar for Matters of Succession, or member of a religious court, and the provisions of the will as presented to or recorded by the authority (hereinafter – the text of the will) shall be given to the testator.

(c) The petition file shall be kept as a separate file which shall include the protocol of the proceedings, which shall specify the way the will was made and shall include the testator's declaration that the will was made of his own free will; the text of the will shall not be placed in the file.

8. Submission of will

A person who is required to hand over a will pursuant to section 75 of the Law shall present the document he has to the Registrar for Matters of Succession, indicating his identity and address, as well as the name of the testator, and shall be given confirmation that the will was submitted; submission of the will shall be recorded in the national registry; the said document shall be kept in the same manner as deposited wills.

9. Notice of existence of will (Amendment: 5761 – 2000)

(a) When the Registrar for Matters of Succession is informed of the death of a testator who left a will or memorandum of an oral will the

national registry, and the provisions of section 76 of the Law have been fulfilled, the Registrar for Matters of Succession shall open the envelope, study its contents, give notice by registered mail to beneficiaries under the will, and if the notice sent to a beneficiary is returned, the Registrar shall give notice of the will in the Official Gazette.

(b) The Registrar for Matters of Succession shall make a protocol of the opening of the envelope and study of the will, and attach a copy of the notice to beneficiaries and the confirmation of delivery and of the notice in the Official Gazette, when published.