

PART IX  
OF THE DEPOSIT OF WILLS

**42. Deposit of wills.**—Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

**43. Procedure on deposit of wills.**—(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.

**44. Withdrawal of sealed cover deposited under section 42.**—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.

**45. Proceedings on death of depositor.**—(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

## 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", substitute the words, letters and figure "cause a true copy of the contents thereof to be made and filed in his Book No. 3";
- (b) in sub-section (2), for the words "copy has been made", substitute the words "true copy has been filed".

[Vide Goa Act 24 of 1985, sec. 3 (w.e.f. 5-12-1985).]

## Karnataka:

Same as in Kerala.

[Vide Karnataka Act 55 of 1976, sec. 4 (w.e.f. 24-10-1976).]

## 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".

[Vide Kerala Act 7 of 1963, sec. 5 (w.e.f. 22-2-1968).]

## Orissa:

Same as in Kerala.

[Vide Orissa Act 14 of 1989, sec. 4 (w.e.f. 19-9-1989).]

## Pondicherry:

Same as in Kerala.

[Vide Pondicherry Act 17 of 1970, Sch. Item (1) (w.e.f. 1-11-1970).]

## Tripura:

Same as in Kerala.

[Vide Tripura Act 7 of 1982, sec. 4 (w.e.f. 1-1-1983).]

## Tamil Nadu:

Same as in Kerala.

[Vide Tamil Nadu Act 21 of 1966.]

## West Bengal:

Same as in Kerala.

[Vide West Bengal Act 17 of 1978, sec. 6 and Sch.]

**46. Saving of certain enactments and powers of Courts.**—(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

## Goa:

In section 46,—

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

[Vide Goa Act 24 of 1985, sec. 4 (w.e.f. 5-12-1985).]

**Karnataka:**

Same as in Kerala.

[Vide Karnataka Act 55 of 1976, sec. 5 (w.e.f. 24-10-1976).]

**Kerala:**

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".

[Vide Kerala Act 7 of 1968, sec. 6 (w.e.f. 22-2-1968).]

**Orissa:**

Same as in Kerala.

[Vide Orissa Act 14 of 1989, sec. 5 (w.e.f. 19-9-1989).]

**Pondicherry:**

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

[Vide Pondicherry Act 17 of 1970, Sch., Item 2 (w.e.f. 1-11-1970).]

**Tripura:**

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

[Vide Tripura Act 7 of 1982, sec. 5 (w.e.f. 1-1-1983).]

**Tamil Nadu:**

Same as in Kerala.

[Vide Tamil Nadu Act 21 of 1966.]

**West Bengal:**

Same as in Kerala.

[Vide West Bengal Act 17 of 1978, sec. 66 and Sch.]