

WILLS, ADMINISTRATION
AND TAXATION:
A PRACTICAL GUIDE

BARLOW, KING & KING
EIGHTH EDITION

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WILLS, ADMINISTRATION AND TAXATION: A PRACTICAL GUIDE

EIGHTH EDITION

By

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Preface

This book was originally written principally for students. However, many practitioners have found it to be an invaluable first source of reference. The eighth edition has been written with this in mind. We have tried to keep the text reasonably concise while covering all the points which are likely to be needed by most practitioners.

The book states the law as at April 9, 2003.

J. S. Barlow
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Savoy, In the Goods of (1851) 15 Jur.1042	2.003
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Segelman (dec'd), Re [1996] 1 W.L.R.173	2.032
Sen v Headley [1991] Ch.425	21.006
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Sinclair (dec'd), Re, Lloyds Bank v Imperial Cancer Research Fund [1985] Ch.446	2.049, 16.028
Slater, Re [1907] 1 Ch.665	16.015
Smith v Smith [2001] 1 W.L.R.1937	16.013
Snoek (dec'd), Re (1983) 13 Fam. Law 18	20.014
Somech, Re, Westminster Bank v Phillips [1957] Ch.165	18.016
Southerden, In the Estate of [1925] P.177	2.053
Spens v IRC [1970] 1 W.L.R.1173	6.021, 19.008
Staniland v Wilott (1852) 3 Mac.& G.664	21.006
Starke v IRC [1995] 1 W.L.R.1439	4.032
Stephanides v Cohen and Stephanides [2002] W.T.L.R.1373	20.012
Stevens v King [1904] 2 Ch.30	16.023
Stoner v IRC [2001] S.T.C. 199	12.019
Tankard, Re [1942] Ch.69	15.001
Taylor (Eleanor's) Estate and Will Trusts, Re Taylor (Jane's) Estate and Will Trusts, Re Taylor v Taylor [1969] 2 Ch.245	16.043, 16.046
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Teague and Ashdown v Wharton; Jeffries, In the Goods of (1871) L.R.2 P.&D.306	8.021
Thorn v Dickens [1906] W.N.54	17.008
Thorpe v Bestwick (1881) 6 Q.B.D.311	16.034
Tod v Barton and Royal Society of Chemistry, unreported, March 2002	13.017
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Townson v Tickell (1819) 3 B.& Ald.31	19.002
Trafford v Boehm (1746) 3 Atk.440	14.001
Trotter, Re [1899] 1 Ch.764	16.035
University College of North Wales v Taylor [1908] P.140	2.015
Vaughan v Vaughan [2002] EWHC 699	2.022
Viner v Francis (1789) 2 Cox Eq.190	17.022

Walding v IRC [1996] S.T.C.13	4.034
Walker v Medlicott [1999] 1 W.L.R.872; [1999] 1 All E.R.685	2.032
Wallace, In the Estate of; Solicitor for the Duch of Cornwall v Batten [1952] 2 T.L.R.925	2.020
Watkins, Re, Hayward v Chatterton [1949] W.N.125	20.014
Watson (dec'd), Re [1999] 1 F.L.R.878; [1997] 3 F.C.R.595	20.006, 20.008
Watson v National Children's Home (1995) 92(37) L.S.Gaz.24	16.040
Weston v IRC [2000] S.T.1064; [2000] B.T.C.8041	4.035
Weston, Re [1902] 1 Ch.680	21.006
White (dec'd); Barker v Gribble, Re [1991] Ch.1	2.056
White v Jones [1995] 2 A.C.207	13.001, 13.003
White v White [2001] 1 A.C.596	20.012, 20.016
Wilkes (Ellen), In the Estate of, unreported, 2000	2.025
Wilkes v Allington [1931] 2 Ch.104	21.005
Wilkinson (dec'd), Re [1978] Fam.22	20.008
Willcocks, Re [1921] 2 Ch.327	16.004
Williams (otherwise Cook) (dec'd), Re, Wiles v Madgin [1985] 1 W.L.R.905	17.011
Williams v Hensman (1861) 1 John & H.558	21.008
Williams v Johns [1988] 2 F.L.R.475	20.007, 20.012
Williams v Williams (1882) 20 Ch.D 659	21.021
Williamson v Naylor (1838) 3 Y. & C.208	16.023
Willis, Re; Spencer v Willis [1911] 2 Ch.563	17.015
Wilson, Re, Wilson v Mackay [1967] Ch.53	15.013
Wintle v Nye [1959] 1 W.L.R.284	2.029, 2.031, 13.016
Wood v Smith [1993] Ch.90	2.005
Woodhall IRC [2000] S.T.C.(SCD) 558; [2000] S.T.I.1653	
Woodward v Woodward [1995] 3 All E.R.980	21.006
Woolnough, Re, Perkins v Borden [2002] W.T.L.R.595	13.006, 21.009
Worby v Rosser [1999] Lloyd's Rep.814	13.005
Wordingham v Royal Exchange Trust Co. [1992] Ch.412	2.032
 X v Woolcombe Yonge [2000] W.T.L.R.308	 13.003
 Yerburgh, Re [1928] W.N.208	 18.012, 18.013
Yorke (dec'd), Re, Stone v Chatway [1997] 4 All E.R.907; (1997) 94(33) L.S.G.26	14.007, 14.008
Young, Re (1951)	16.036

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NB: With the passing of the Finance Act 1986, the Capital Transfer Tax Act 1984 is now known as the Inheritance Tax Act 1984. References in this table are to the name of the Act as it appears in the text.

1837	Wills Act (7 Will.4&1 Vict. c.26)	2.056	1925	Trustee Act (15&16 Geo.5 c.19)	11.006, 18.011
	s.7	2.018		s.14	11.007
	s.9	2.001, 2.005, 2.006, 2.007, 2.010, 22.010		s.19	11.011, 22.040
	s.11	2.018		s.26	14.013, 14.014
	s.15	2.008, 2.040, 2.053, 16.032, 16.033, 16.037		(2)	14.013
	s.18	2.046		s.27	3.020, 14.002, 14.003, 14.005, 14.006, 14.010, 14.011
	(2)	2.047		(2)	14.004
	(3)	2.046, 2.047		s.31	7.025, 7.026, 7.029, 7.044, 7.051, 7.052, 7.053, 11.015, 11.017, 11.018, 22.019, 22.036, 22.049, 22.050
	(4)	2.047		(1)	11.017, 22.049
	(b)	2.047		(2)	11.017
	s.18A	2.048, 2.049, 16.027, 16.028, 22.038		s.32	11.019, 22.019, 22.047
	(3)	2.048		s.61	11.036, 14.001, 14.010
	s.20	2.050, 2.054		s.63	14.009, 18.023
	s.21	2.056		Law of Property Act (15&16 Geo.5 c.20)	
	s.24	17.012, 17.016, 22.022		s.21	18.016
	s.27	15.017, 17.018		s.27(2)	11.06
	s.32	16.022, 16.024		s.36(2)	21.008
	s.33	16.022, 16.025, 16.026, 17.028, 22.038		s.52(1)	18.005
	(1)	16.025, 16.026		ss 164–166	16.051
	(2)	16.025, 16.026, 22.034		s.175	16.051, 16.053
	(3)	16.025		s.184	4.017, 13.009, 16.020, 16.021, 22.037
	(4)	16.026		Administration of Estates Act (15&16 Geo. c.23)	3.005, 11.006, 16.045, 18.012
1838	Judgments Act (1&2 Vict. c.110)			Pt IV	3.001
	s.17	15.036		s.7	8.005
1852	Wills Act Amendment Act (15&16 Vict. c.24)	2.005		s.10(2)	15.039
1870	Apportionment Act (33&34 Vict. c.35)	6.016, 16.054, 18.019, 22.042, 22.051		s.22	8.004
	s.2	16.054		s.25	11.001
1882	Married Women's Property Act (45&46 Vict. c.75)	4.013, 11.002		s.28	8.009
	s.11	12.007, 21.010		s.33	3.004, 16.046
1906	Public Trustee Act (6 Edw.7 c.55)	22.018		(1)	3.003, 16.046
1925	Settled Land Act (15&16 Geo.5 c.18)	8.029, 11.019, 22.031		(2)	3.003, 16.045, 16.046
				s.34	15.014
				(3)	15.002
				s.35	13.009, 15.003, 15.006, 15.008, 15.014, 22.025, 22.029

1925	Administration of Estates Act— <i>cont.</i>		1969	Family Law Reform Act— <i>cont.</i>	
	s.35(1)	15.004		s.3(1)(a)	2.018
	(2)(a)	15.008		s.15	17.020
	(b)	15.008	1970	Taxes Management Act (c.9)	
	s.36	18.005		s.8(8)	6.010
	(1)	18.004, 18.005		s.59B	5.019
	(2)	18.007		Income and Corporation Taxes Act (c.10)	
	(4)	18.006		Sch.D, Case I	7.040
	(5)	18.008		Administration of Justice Act (c.31)—	
	(6)	18.008		s.1(4)	8.001
	(7)	18.008	1971	Administration of Estates Act (c.25)	10.011, 10.058
	(10)	18.009		s.9	11.001
	s.37	8.040	1973	Matrimonial Causes Act (c.18)	
	s.39	8.040, 11.007, 11.008, 22.031		s.18(2)	3.006
	(1)(i)	11.007		(3)	3.006
	(ii)	11.007		s.51(2)	20.007
	s.41	3.012, 11.008, 22.040	1974	Control of Pollution Act (c.40)	21.021
	s.42	11.009, 18.017, 22.041	1975	Social Security Act (c.14) ..	15.034
	s.43	18.009		Social Security (Northern Ireland) Act (c.15)	15.034
	s.44	11.010, 16.048		Social Security Pensions Act (c.60)	15.034
	s.46(1)(vi)	3.005		Inheritance (Provision for Family and Depend- ants) Act (c.63) ..	2.048, 8.031, 14.016, 16.039, 19.001, 20.001, 21.017
	s.47	3.015		s.1(1)	3.001, 20.002, 20.005
	(1)(iii)	3.017		(e)	20.008, 20.018
	s.47A	3.010		(2)(a)	20.010
	(6)	3.010		(b)	20.011
	s.49(1)(a)	3.017		(3)	20.008
	(aa)	3.013		s.2(1)	20.019
	s.55(1)(ix)	15.015		(3)	20.019
	(x)	3.008, 16.008		(4)	20.022
	Sch.1, Pt II	15.002, 15.011		s.3(1)	20.013, 20.014
1952	Intestates' Estates Act (15&16 Geo.6 & 1 Eliz.2 c.64)	11.008		(d)	20.014
	Sch.2	3.011, 3.012		(2)	20.015
	para.2	3.012		(5)	20.012
	para.4(2)	3.012		s.4	2.031, 20.003
	para.5(2)	3.011, 11.008		s.6	20.024
1957	Cheques Act (5&6 Eliz.2 c.36)			(2)	20.024
	s.3	18.015		(5)	20.024
1959	Mental Health Act (7&8 Eliz.2 c.72)			(6)	20.024
	s.103A	2.027		(7)	20.024
1961	Trustee Investments Act (9&10 Eliz.2 c.62)	11.022		s.7	20.020
1964	Perpetuities and Accumulations Act (c.55)	22.036		s.8	20.025
	s.13	16.051		s.9	20.025, 20.026, 20.036
1965	Administration of Justice Act (c.2)			(4)	20.026
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	Administration of Estates (Small Payments) Act (c.32)	12.010		(3)	20.033
1968	Wills Act (c.28)	16.037		(4)	20.033
1969	Family Law Reform Act (c.46)				
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1975	Inheritance (Provision for Family and Dependents) Act— <i>cont.</i>	
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	(3)	20.034
	(4)	20.032
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	(2)	20.030
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	(1)	20.036
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1977	Administration of Justice Act (c.38)	3.010
1978	Domestic Proceedings and Magistrates' Courts Act (c.22)	3.006
1979	Capital Gains Act (c.14)	
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1980	Limitation Act (c.58)	
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	s.32	14.001
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1981	Supreme Court Act (c.54)	
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	s.114(1)	8.019, 8.036
	(2)	8.019
	(4)	8.004, 8.019
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1982	Forfeiture Act (c.34)	16.038
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	(3)	16.039
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	s.4(5)	16.038
	Administration of Justice Act (c.53)	2.031, 2.046, 2.048, 16.025, 17.007, 20.010
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	s.18A	22.038
	s.19	17.028, 22.034
	s.20	2.031, 13.001, 14.016, 17.006
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1983	Mental Health Act (c.20) ...	2.020, 16.019
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1984	County Courts Act (c.28)	
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