

Act on Storage of Wills in Legal Affairs Bureau

(Act No. 73 of July 13, 2018)

(Purpose)

Article 1 This Act is to provide necessary matters in connection with the storage of a will (meaning a will related to a will made by holograph document of Article 968 of the Civil Code (Act No. 89 of 1896); the same applies hereinafter) and management of information in the Legal Affairs Bureau (including branch bureaus and branch offices of the Legal Affairs Bureau, branch offices of the branch bureau of the Legal Affairs Bureau, and the District Legal Affairs Bureau and its branch bureaus, and their branch offices; the same applies in paragraph (1) of the following Article), and provide special provisions in connection with the treatment of the will.

(Will Storage Office)

Article 2 (1) Affairs connected with the storage of a will is to be administered by the Legal Affairs Bureau, which is designated by the Minister of Justice, as a will storage office.

(2) The designation of the preceding paragraph must be made by public notice.

(Will Storage Officer)

Article 3 Affairs in a will storage office is to be handled by a will storage officer (meaning a person designated by the director of the Legal Affairs Bureau and the District Legal Affairs Bureau from officials of the Ministry of Justice who work at the will storage office; the same applies hereinafter).

(Application for Storage of Will)

Article 4 (1) A testator may file an application for the storage of a will to a will storage officer.

(2) The will of the preceding paragraph must be made in the form specified by Order of the Ministry of Justice and not be sealed.

(3) The application of paragraph (1) must be filed with a will storage officer of the will storage office having jurisdiction over the domicile or registered domicile of the testator or the location of the real property which the testator owns (if another will made by the testator has been already stored in a will storage office, the will storage office in which the other will is stored).

(4) A testator who intends to file the application of paragraph (1) must submit a written application stating the following matters with a will to a will storage officer, as specified by Order of the Ministry of Justice:

- (i) the date of creation which is stated in the will;
 - (ii) name, the date of birth, address, and registered domicile (or nationality if the testator is a foreign national) of the testator;
 - (iii) if the following persons are stated in the will, their names and addresses:
 - (a) a donee;
 - (b) an executor who is designated pursuant to Article 1006, paragraph (1) of the Civil Code;
 - (iv) matters provided by Order of the Ministry of Justice in addition to matters listed in the preceding three items.
- (5) A document certifying matters listed in item (ii) of the preceding paragraph and a document specified by Order of the Ministry of Justice must be attached with the written application of the preceding paragraph.
- (6) When a testator files the application of paragraph (1), the testator must appear in a will storage office to do so.

(Identity Confirmation by Will Storage Officer)

Article 5 If the application of paragraph (1) of the preceding Article is filed, a will storage officer is to request the applicant to provide a document showing matters including the name which are specified by Order of the Ministry of Justice as being necessary for identifying the applicant or explain these matters in order to confirm the identity of the applicant, as provided by Order of the Ministry of Justice.

(Storage of Will)

- Article 6 (1) The storage of a will is to be implemented by a will storage officer in a facility of the will storage office.
- (2) At any time, a testator may file a request to inspect a will that the testator applied to have stored, with a storage officer at the will storage office where that will related to the application is stored (referred to as "specified will storage office" in paragraph (4) and Article 8).
- (3) A testator who intends to make the request of the preceding paragraph must submit a written request stating to that effect with a document specified by Order of the Ministry of Justice to a will storage officer, as specified by Order of the Ministry of Justice.
- (4) When a testator makes the request of paragraph (2), the testator must appear in the specified will storage office to do so. In this case, the provisions of the preceding Article apply mutatis mutandis.
- (5) If the storage of a will under paragraph (1) is implemented, a will storage officer may dispose of it after the period provided by Cabinet Order as a period which is found to be necessary to prevent a dispute in connection with inheritance has elapsed from the date of death of the testator (or the date

provided by Cabinet Order as a date equivalent to this if it is unclear whether the testator is dead or alive).

(Management of Information related to Will)

Article 7 (1) With regard to a will stored pursuant to paragraph (1) of the preceding Article, a will storage officer must manage information related to the will pursuant to the following paragraph.

(2) The management of information related to a will is to be achieved by recording the following matters on a will storage file prepared by using a magnetic disk (including media using the similar method on which certain matters can be securely recorded):

(i) image information of the will;

(ii) matters listed in items (i) through (iii) of Article 4, paragraph (4);

(iii) the date of commencement of storage of the will;

(iv) name of the will storage office where the will is stored and its storage number.

(3) The provisions of paragraph (5) of the preceding Article apply mutatis mutandis to the management of information related to a will under the preceding paragraph. In this case, "dispose of" in paragraph (5) of the preceding Article is replaced with "delete".

(Withdrawal of Application for Storage of Will)

Article 8 (1) A testator may withdraw the application of Article 4, paragraph (1) at any time by requesting so to a will storage officer in the specified will storage office.

(2) A testator who intends to carry out the withdrawal of the preceding paragraph must submit a withdrawal document stating to that effect along with a document specified by Order of the Ministry of Justice to a will storage officer, as specified by Order of the Ministry of Justice.

(3) When a testator carries out the withdrawal of paragraph (1), the testator must appear in the specified will storage office to do so. In this case, the provisions of Article 5 apply mutatis mutandis.

(4) When a testator carries out the withdrawal of paragraph (1), a will storage officer must return the will which is stored pursuant to Article 6, paragraph (1) to the testator and delete information related to the will which is managed pursuant to paragraph (2) of the preceding Article without delay.

(Issuance of Certificate of Will Information)

Article 9 (1) The following persons (hereinafter referred to as "relevant heir, etc." in this Article) may request a will storage officer to issue a document certifying matters recorded on a will storage file (referred to as "certificate of

will information" in paragraph (5) and Article 12, paragraph (1), item (iii)) with regard to a will which is stored in a will storage office (but only if the testator is dead):

- (i) an heir of the testator who filed an application for the storage of the will (including persons who lost a right of inheritance by application of the provisions of Article 891 of the Civil Code or disinheritance and persons who renounced the inheritance; hereinafter the same applies in this Article);
- (ii) beyond the persons listed in the preceding item, the following persons who are stated in the will or their heirs (if the person is an heir of a mother under (b), it is limited to an unborn child under (b)):
 - (a) a person listed in Article 4, paragraph (4), item (iii), (a);
 - (b) a child who is affiliated pursuant to Article 781, paragraph (2) of the Civil Code (or the mother if the child is an unborn child);
 - (c) a presumptive heir that the decedent has manifested the intention to disinherit pursuant to Article 893 of the Civil Code (meaning the presumptive heir under Article 892 of that Code; hereinafter the same applies in this (c)) or a presumptive heir whose disinheritance the decedent has manifested the intention to rescind pursuant to Article 893 of that Code as applied mutatis mutandis to Article 894, paragraph (2) of that Code;
 - (d) a person who should preside over rituals for ancestors and is designated pursuant to the proviso to Article 897, paragraph (1) of the Civil Code;
 - (e) a person who is specifically designated in surviving family members eligible to receive lump sum compensation for surviving family pursuant to Article 17-5, paragraph (3) of the National Public Servants Accident Compensation Act (Act No. 191 of 1951) or a person who is specifically designated in surviving family members eligible to receive lump sum compensation for surviving family pursuant to Article 37, paragraph (3) of the Local Public Officers Accident Compensation Act (Act No. 121 of 1967);
 - (f) a person designated as a person who should be a beneficiary or a person designated as a person in whom residual assets should be vested if a trust is created by the means listed in Article 3, item (ii) of the Trust Act (Act No. 108 of 2006), or a person who should be a beneficiary as a result of the exercise of the right to designate or change a beneficiary under Article 89, paragraph (2) of that Act;
 - (g) a person who should be a beneficiary as a result of the change of beneficiaries under Article 44, paragraph (1) or Article 73, paragraph (1) of the Insurance Act (Act No. 56 of 2008);
 - (h) beyond persons listed in (a) through (g), a person provided by Cabinet Order as being equivalent thereto;
- (iii) beyond persons listed in the preceding two items, the following persons

who are stated in the will:

- (a) a person listed in Article 4, paragraph (4), item (iii), (b);
 - (b) an administrator who is designated with regard to the property of Article 830, paragraph (1) of the Civil Code;
 - (c) a guardian of a minor who is designated pursuant to Article 839, paragraph (1) of the Civil Code or a supervisor of a guardian of a minor who is designated pursuant to Article 848 of that Code;
 - (d) a third party who is entrusted to determine share in the inheritance of joint-heirs pursuant to Article 902, paragraph (1) of the Civil Code, a third party who is entrusted to determine a form of division of inherited property pursuant to Article 908 of that Code, or a third party who is entrusted to designate an executor pursuant to Article 1006, paragraph (1) of that Code;
 - (e) a person who is designated with regard to registration of Article 75, paragraph (1) pursuant to paragraph (2) of that Article of the Copyright Act (Act No. 48 of 1970) or a person who is designated with regard to the request of Article 106, paragraph (1) pursuant to paragraph (3) of that Article of that Act;
 - (f) a person designated as a person who should be a beneficiary, a person who should be a trust administrator, a person who should be a trust supervisor or a person who should be a beneficiary's agent if a trust is created by the means listed in Article 3, item (ii) of the Trust Act;
 - (g) beyond persons listed in (a) through (f), a person provided by Cabinet Order as being equivalent thereto.
- (2) The request of the preceding paragraph may be made to a will storage officer in a will storage office other than a will storage office where a will in which the principal falls under a relevant heir, etc. (hereinafter referred to as "relevant will" in this Article and paragraph (1) of the following Article) has been already stored.
- (3) A relevant heir etc. may make a request to a will storage officer in a will storage office where a relevant will is stored for inspection of the relevant will.
- (4) A person who intends to make the request of paragraph (1) or the preceding paragraph must submit a written request stating to that effect with a document specified by Order of the Ministry of Justice to a will storage officer, as specified by Order of the Ministry of Justice.
- (5) When a will storage officer issues a certificate of will information upon the request of paragraph (1) or permits the inspection of a relevant will upon the request of paragraph (3), the official is immediately to notify an heir of the will and persons listed in (a) and (b) of Article 4, paragraph (4), item (iii) related to the relevant will that the relevant will is stored, as specified by Order of the Ministry of Justice; provided, however, that this does not apply if this is already known to the above persons.

(Issuance of Certificate of Will Storage)

Article 10 (1) Any person may request a will storage officer to issue a document certifying whether or not a relevant will is stored in a will storage office, and, if the relevant will is stored, matters which are listed in item (ii) (it is limited to the part related to Article 4, paragraph (4), item (i)) and item (iv) of Article 7, paragraph (2) and are recorded on a will storage file (referred to as "certificate of will storage" in Article 12, paragraph (1), item (iii)).

(2) The provisions of paragraph (2) and paragraph (4) of the preceding Article apply mutatis mutandis to the request of the preceding paragraph.

(Exemption from Application of Probate of Will)

Article 11 The provisions of Article 1004, paragraph (1) of the Civil Code do not apply to a will stored in a will storage office.

(Fees)

Article 12 (1) A person listed in the following items must pay the fees provided by Cabinet Order in consideration of the actual expenses required for the affairs provided respectively in those items in addition to the price condition:

(i) a person who files an application for the storage of a will: affairs connection with the storage of the will and management of information related to the will;

(ii) a person who makes a request for inspection of a will: affairs connected with the inspection of the will and with maintaining the system for the inspection of will;

(iii) a person who makes a request for issuance of a certificate of will information or a certificate of will storage: affairs connected with the issuance of the certificate of will information or the certificate of will storage and development of the system for the issuance.

(2) Payment of the fees of the preceding paragraph must be made by way of revenue stamps.

(Exception from Application of Administrative Procedure Act)

Article 13 The provisions of Chapter II of the Administrative Procedure Act (Act No. 88 of 1993) do not apply to dispositions of a will storage officer.

(Exception from Application of Act on Access for Information Held by Administrative Organs)

Article 14 The provisions of the Act on Access to Information Held by Administrative Organs (Act No. 42 of 1999) do not apply to a will stored in a will storage office and a will storage file.

(Exception from Application of Act on the Protection of Personal Information
Held by Administrative Organs)

Article 15 The provisions of Chapter IV of the Act on the Protection of Personal Information Held by Administrative Organs (Act No. 58 of 2003) do not apply to retained personal information (meaning the retained personal information under Article 2, paragraph (5) of that Act) recorded in a will stored in a will storage office and a will storage file.

(Request for Review)

- Article 16 (1) A person who is dissatisfied with a disposition made by a will storage officer or who files an application for a disposition related to the inaction of the will storage officer may make a request for review to the director of the supervisory Legal Affairs Bureau or the District Legal Affairs Bureau.
- (2) A request for review must be made by submitting a written request for review to a will storage officer.
 - (3) When a will storage officer finds a request for review of a disposition to be well-grounded or it necessary to make a disposition related to inaction subject to the request for review, the storage official of the will must make an appropriate disposition.
 - (4) Except in the cases under the preceding paragraph, a will storage officer must refer the case with opinions to the director of the supervisory Legal Affairs Bureau or the District Legal Affairs Bureau within three days from the date of the request. In this case, the director of the supervisory Legal Affairs Bureau or the District Legal Affairs Bureau is to convey the opinions to the review officer under Article 11, paragraph (2) of the Administrative Complaint Review Act (Act No. 68 of 2014).
 - (5) When the director of the Legal Affairs Bureau or the District Legal Affairs Bureau finds a request for review of a disposition to be well-grounded or that it is necessary to make a disposition related to inaction subject to the request for review, the director must order a will storage officer to make an appropriate disposition and give notice of this to a person who made the request for review and to any other interested person.
 - (6) When the director of the Legal Affairs Bureau or the District Legal Affairs Bureau finds it necessary to dismiss an application for a disposition related to inaction subject to a request for review, the director must order a will storage officer to make a disposition to dismiss the application.
 - (7) With regard to the application of the provisions of the Administrative Complaint Review Act to a request for review of paragraph (1), the phrase "administrative agency, etc. reaching the disposition" and the phrase "a

written explanation has been submitted" in Article 29, paragraph (5) of that Act are deemed to be replaced with "reviewing agency" and "opinions are conveyed under Article 16, paragraph (4) of the Act on Storage of Will in Legal Affairs Bureau (Act No.73 of 2018)", respectively, and the term "written explanation" in Article 30, paragraph (1) of that Act is deemed to be replaced with "opinions of Article 16, paragraph (4) of the Act on Storage of Will in Legal Affairs Bureau".

(Exception from Application of Administrative Complaint Review Act)

Article 17 The provisions of Article 13, Article 15, paragraph (6), Article 18, Article 21, Article 25, paragraphs (2) through (7), Article 29, paragraphs (1) through (4), Article 31, Article 37, Article 45, paragraph (3), Article 46, Article 47, Article 49, paragraph (3) (excluding the part related to a declaration to the effect that inaction subject to a request for review is illegal or unjust), Article 49, paragraph (4) and paragraph (5), and Article 52 of the Administrative Complaint Review Act do not apply to the request for review of paragraph (1) of the preceding Article.

(Delegation to Cabinet Order)

Article 18 Beyond what is specified in this Act, other necessary matters connected with the storage of a will and management of information in a will storage office are to be specified by Cabinet Order.

Supplementary Provisions

This Act comes into effect as of the date provided by Cabinet Order, within a period not exceeding two years counting from the date of its promulgation.