



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Succession, Special Notaries and
Inventory Proceeding (Amendment) Bill, 2022**

(Bill No. 12 of 2022)

(To be introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM
JYULY, 2022**

The Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Bill, 2022

(Bill No. 12 of 2022)

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BILL

further to amend the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016).

5 BE it enacted by the Legislative Assembly of Goa in the Seventy-third Year of the Republic of India as follows:-

1. Short title and commencement.— (1) This Act may be called the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2022.

10 (2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

15 **2. Amendment of section 2.**— In section 2 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as “the principal Act”), in clause (z), after the words “a written account”, the expression “, either electronic or manual including online procedure” shall be inserted.

3. Amendment of section 35.— In section 35 of the principal Act,-

20 (i) for sub-section (1), the following sub section shall be substituted, namely:—

“(1) Renunciation of an inheritance shall be made before the Court or before the Special Notary having jurisdiction over the place where the succession opens.”;

(ii) after sub- section (4), the following sub section shall be inserted, namely:—

“(4A) All such files shall be bound in volumes containing 200 pages each, numbered consecutively and each volume maintained annually shall be numbered serially starting from Volume I of year.....”.

4. Amendment of section 52.— In section 52 of the principal Act, in sub-section (1),—

(a) after item (i), the following item shall be inserted, namely:— 10

“(ia) on the surviving spouse;”;

(b) for item (iii), the following item shall be substituted, namely:—

“(iii) on the brothers and sisters and their descendents;”;

(c) item (iv) shall be omitted. 15

5. Insertion of new section 307A.— After section 307 of the principal Act, the following section shall be inserted, namely:—

“307A. Jurisdiction to draw instruments and deeds.— The special Notary shall have jurisdiction to draw instruments and deeds including wills as below:— 20

(i) The Special Notary having jurisdiction over the place where the succession opens shall be competent to draw deed of declaration of heirship and deed of renunciation.

(ii) The Special Notary having jurisdiction over the place of permanent residence of the Testator/Testatrix, Donor or the executing party shall draw a will, consent or power of attorney respectively. 25

Provided that whenever owing to medical disability condition the Testator/Testatrix is admitted to hospital or

restricted at a place other than his permanent residence, then on production of valid medical documents, the will can be drawn by the Special Notary having jurisdiction over such place.”.

- 5 **6. Amendment of section 308.**—In section 308 of the principal Act, in sub-section (2), for the expression “District Judge of the respective district court or an additional district judge nominated by him, as the case may be”, the words “District Special Notary of the respective District” shall be substituted.
- 10 **7. Amendment of section 310.**— In section 310 of the principal Act, for the expression “District Judge of the respective District Court or an Additional District Judge nominated by him, as the case may be”, the words “District Special Notary of the respective district” shall be substituted.
- 15 **8. Amendment of section 320.**— In section 320 of the principal Act, in sub-section (3), for the expression “within 3 days”, the expression “within 30 days after hearing all the parties” shall be substituted.
- 20 **9. Amendment of section 324.**— In section 324 of the principal Act,—
- (i) in sub-section (i), in clause (iv), for the expression “The power of attorney executed abroad shall be counter-signed by the Indian Diplomatic Agent or the Consular services and shall be duly stamped by the competent Collector in Goa;”, the expression “The Power of attorney executed abroad except where a certificate called an Apostille has been issued thereto, shall be counter-signed by the Indian Diplomatic Agent or the Consular services and shall be duly stamped by the competent Collector in Goa;” shall be substituted;
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- 30 (ii) in sub-section (2), the words “or certified copy thereof” shall be omitted.
- 10. Amendment of section 333.**— In section 333 of the principal Act, in sub-section (7), for the words “District Judge”, the words “District Special Notary” shall be substituted.

11. Amendment of section 337.— In section 337 of the principal Act, the expression “The testator may keep the closed will with himself or hand it over to a person of his confidence” shall be added at the end.

12. Omission of sections 338, 339 and 340.— In the principal Act, sections 338, 339 and 340 shall be omitted. 5

13. Amendment of section 346.— In section 346 of the principal Act,-

(i) in sub-section (4), the words “or a certified copy issued by an institution maintaining such records” shall be omitted;

(ii) after sub- section (4), the following sub-section shall be inserted, namely:— 10

“(4A) In the event when a party to succession deed produces documents of his identity and the names on the documents produced are different, the parties may produce a certificate issued by the Mamlatdar for certifying the names appearing in different certificates are that of one and the same person.”. 15

14. Insertion of new section 346A.— After section 346 of the principal Act, the following section shall be inserted, namely:—

“346A. Printed Deed of Declaration of Heirship.— (1) The Declarants and interested parties as specified in section 346 may opt to present to the Special Notary, a computer generated printout in black ink of the unsigned Deed of Declaration of Heirship, written in the language of the Court, complying with all the legal formalities as specified under section 346 and other provisions under this Act on a standard ledger paper (Legal Size) leaving a margin of 5 cm. on left side, 3 cms on top and the bottom and 2 cms. on the right side of the paper. The print shall be in Times New Roman Script with double spacing and continuous without break between words and numbers shall be written in words, accompanied by all the documents required for registration of said deed. 20 25 30

(2) Upon submission of printed Deed of Declaration of Heirship, all the parties shall put their name, sign and thumb impression by appearing in the office of the Special Notary, and thereafter the Special Notary shall sign the said deed.

5 (3) All the printed Deeds of Declaration of Heirship registered before the Special Notary alongwith all the supporting documents, until they are preserved in a form of a bound book, as provided in sub-section (4), shall be maintained in a provisional file. In the same file, all the Deeds of Declaration of Heirship so presented
10 shall be kept as per the serial order of its presentation and their pages numbered serially.

(4) At the end of every 200 sheets, the District Special Notary of the concerned district shall initial all the pages of the Deed of Declaration of Heirship contained in the file and ensure that the
15 sheets are bound in a book.”.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend section 2 (z) of the Goa Succession, Special Notaries and Inventory Proceedings Act, 2021 (Goa Act 23 of 2016) (hereinafter referred to as the 'said Act') so as to introduce the concept of digital record i.e. electronic form of making or drawing a record by the Special Notary.

The Bill further seeks to amend section 35 of the said Act so as to introduce jurisdiction based on section 9 and lay down procedure for filing the documents submitted to Special Notary.

The Bill also seeks to amend section 52 of the said Act so as to rectify the order of legal succession.

The Bill also seeks to insert new section 307A in the said Act to lay down jurisdiction, as there is no provision for entertaining the applications for drawing of various instruments and deeds including wills based on jurisdiction.

Various books, indexes, etc., and printed wills have to be countersigned by the District Judge or Additional District Judge nominated by him. This process is time consuming and sometimes cumbersome for offices situated at distance and therefore the Bill seeks to amend section 308 and section 310 of the said Act, to authorise District Special Notary with these powers.

The Bill also seeks to amend section 324 of the said Act as the matters regarding power of attorney executed outside India to be countersigned by Indian Diplomatic Agent is governed by International Law which changes from time to time, and at present, the power of attorney may not be required to be countersigned by Indian Diplomatic Agent, as Republic of India is a party to Hague Apostille Convention. Amendment is also proposed for removing the option of certified copy of power of attorney and the original power of attorney has to be submitted in office for authenticity of the record and as provided in other sections for other Notarial acts;

The Bill also seeks to amend section 337 of the said Act so as to include the option of either keeping the closed will with the testator or with person of his confidence, when it is delivered to him after completing the formalities by the Special Notary;

As the Special Notary Offices are not well equipped with latest security protocol, such as, fire extinguishers, fire proof vaults and boxes, etc., it is risky to take custody of closed wills and keep them in the office, moreover, if the closed wills remains with the party it will be more safe and testator will take due care of it. Therefore, sections 338, 339 and 340 of the said Act are proposed for omission;

The Bill also seeks to amend section 346 of the said Act as the same is ambiguous and allows party to submit any document issued by any institution, legally not empowered to maintain the same;

The Bill also seeks to insert a new section 346A in the said Act for providing a printed Deed of Declaration of Heirship, in similar line of printed open will.

This Bill seeks to achieve the above objects.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Financial Memorandum

No financial implications are involved in this Bill.

Porvorim -Goa
Dated: 14-07-2022

NILESH CABRAL
Hon. Minister for Law and Judiciary

Assembly Hall,
Porvorim-Goa
Dated: 14-07-2022

Namrata Ulman
Secretary to the Legislative Assembly of Goa

ANNEXURE

Name of The Bill: The Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Bill, 2022.

Sr. No.	Existing Provision	Amendment proposed in the Bill	Justification for amendment
1	2	3	4
1.	Section 2(z) “to make a record” or “to draw a record” means to draw up a written account of an act or a series of acts under authority of law by the Special Notary and designed to furnish permanent authentic evidence of the matters to which it relates;	Amendment of section 2.— In section 2 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as “the principal Act”), in clause (z), after the words “a written account”, the expression “, either electronic or manual including online procedure” shall be inserted.	As to introduce the concept of digital record i.e. electronic form of making or drawing a record by the Special Notary.
2.	Section 35. How renunciation is effected.— (1) Renunciation of an inheritance shall be made before the Court having jurisdiction over the place where the succession opens or before any Special Notary. (2) When made before the Court, it shall	Amendment of section 35.- In section 35 of the principal Act,-(i) for sub-section (1), the following sub section shall be substituted, namely:— ”(1) Renunciation of an inheritance shall be made before the	To amend section 35 of the said Act so as to introduce jurisdiction based on section 9 and lay down procedure for filing the documents submitted to Special Notary.

1	2	3	4
	be drawn in a book which shall have it's pages duly numbered, and initialled by the Court and when made by the Special Notary, it shall be drawn in his respective Book. The deed or record of renunciation by the heir shall be written in indelible black ink in a clear and legible handwriting. (3) It is the duty of the court to inspect the book once a year and record a certificate of inspection on the page immediately following the last page used. The register shall be maintained in the chronological order and shall be preserved as a permanent record of the court. (4) When an heir renounces the inheritance through his attorney, the power of attorney shall be also preserved in a separate file maintained for the purpose and the page at which the power of attorney is placed shall be mentioned at the bottom of the deed. The file shall have an index of the powers of attorney.	Court or before the Special Notary having jurisdiction over the place where the succession opens.”; (ii) after sub-section (4), the following sub section shall be inserted, namely: “(4A) All such files shall be bound in volumes containing 200 pages each, numbered consecutively and each volume maintained annually shall be numbered serially starting from Volume 1 of year...”.	

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3.	<p>Section 52. Order of legal succession.— (1) The legal succession shall devolve in the following order:—(i) on the descendants; (ii) on the ascendants, subject to the provisions of sub-section (2) of section 72; (iii) on the brothers and their descendants; (iv) on the surviving spouse; (v) on the collaterals not comprised in clause (iii) upto the 6th degree; (vi) on the State, provided that, in the absence of testamentary or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner. (2) In respect of persons referred to in clauses (i), (ii) and (iii) of sub-section (1), the agricultural produce or fruits, gathered or growing, meant and necessary for the maintenance of the couple shall be deemed to be the personal property of the surviving spouse, provided that on the date of the opening of the inheritance there is no suit for divorce or separation of persons and properties, pending or decreed.</p>	<p>Amendment of section 52.— In section 52 of the principal Act, in sub-section (1),— (a) after item (i), the following item shall be inserted, namely:- “(ia) on the surviving spouse;”; (b) for item (iii), the following item shall be substituted, namely:- “(iii) on the brothers and sisters and their descendents;”; (c) item (iv) shall be omitted.</p>	<p>To amend section 52 of the said Act so as to rectify the order of legal succession.</p>

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4.	—————	<p>Insertion of new section 307A.— After section 307 of the principal Act, the following section shall be inserted, namely:— ” 3 0 7 A . Jurisdiction to draw instruments and deeds.—The special Notary shall have jurisdiction to draw instruments and deeds including wills as below:— (i) The Special Notary having jurisdiction over the place where the succession opens shall be competent to draw deed of declaration of heirship and deed of renunciation.(ii) The Special Notary having jurisdiction over the place of permanent residence of the Testator/Testatrix, Donor or the executing party</p>	<p>To insert new section 307A in the said Act to lay down jurisdiction, as there is no provision for entertaining the applications for drawing of various instruments and deeds including wills based on jurisdiction.</p>

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Judge of the respective District Court or an Additional District Judge nominated by him, as the case may be.	the respective District Court or an Additional District Judge nominated by him, as the case may be", the words "District Special Notary of the respective District" shall be substituted.	Amendment of section 320.— In section 320 of the principal Act, in sub-section (3), for the expression "within 3 days", the expression "within 30 days after hearing all the parties" shall be substituted.	The period is extended from 3 to 30 days.
7. Section 320. Refusal to perform an act.— (1) Order of refusal to record reasons.— When the Special Notary refuses in writing to perform an act, which he is empowered to do, he shall make an order of refusal expeditiously and record his reasons for such order in his Book No. IX and endorse the words "refused to draw" on the draft document, if any, is presented, and, on an application made by any person who has an interest in causing it to be drawn, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.(2)			

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Application for reconsideration.— The aggrieved party may call upon such Notary to reconsider his refusal. (3) Duty to forward to the District Special Notary the application for reconsideration.— In the event the Special Notary does not reconsider the refusal within forty-eight hours, then he is bound to send the application for reconsideration to the District Special Notary as Appellate Authority, along with the respective documents and his report wherein he shall record reason for his refusal to perform the act. The District Special Notary shall give his decision affirming, reversing or altering such order within 3 days.			
8. Section 324. Requisites of authentic documents.— (1) The requisites of the authentic documents are as follows:— (i) the hour, date, month, year	In section 324 of the principal Act, —(i) in sub-section (i), in clause (iv), for the expression "The power of attorney	To amend section 324 of the Act as the matters regarding power of attorney executed outside India to be countersigned by	

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<p>and the place where the document was drawn or signed when drawn outside the office and the statement that the Special Notary went there at the express request of the party;(ii) full name of the Special Notary, his designation as such Special Notary, and the address of his office;(iii) full names, age, marital status, professions and addresses of the parties, and of their attorney or representatives, if the latter intervened directly in the deed;(iv) a reference to the powers of attorney and other documents which prove they are attorneys or representatives, so also other documents relating to the acts or which are part and parcel of the latter, with the dates and other details which identify them. The power of attorney executed abroad shall</p>	<p>executed abroad shall be counter-signed by the Indian Diplomatic Agent or the Consular services and shall be duly stamped by the competent Collector in Goa;”, the expression “The Power of attorney executed abroad except where a certificate called an Apostille has been issued thereto, shall be counter-signed by the Indian Diplomatic Agent or the Consular services and shall be duly stamped by the competent Collector in Goa;” shall be substituted;</p>	<p>Indian Diplomatic Agent is governed by International Law which changes from time to time, and at present, the power of attorney may not be required to be countersigned by Indian Diplomatic Agent, as Republic of India is a party to Hague Apostille Convention . Amendment is also proposed for removing the option of certified copy of power of attorney and the original power of attorney has to be submitted in office for authenticity of the record and as provided in other sections for other Notarial acts;</p>	

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	<p>be counter-signed by the Indian Diplomatic Agent or the Consular services and shall be duly stamped by the competent Collector in Goa;(v) the acknowledgement of the identity of the parties from his personal knowledge or from the statement of the identifiers who know them;(vi) reference of the oath taken by the interpreters and the reasons which required their intervention and the manner in which the interpreters ascertained the wishes of the parties and explained to them the contents of the documents; (vii) full names, age, status, professions and address of the witnesses , interpreters and identifiers and also of the persons who read the documents at the request of the parties;(viii) the statement of the party</p>		

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opt to present to the Special Notary, a computer generated printout in black ink of the unsigned Deed of Declaration of Heirship, written in the language of the Court, complying with all the legal formalities as specified under section 346 and other provisions under this Act on a standard ledger paper (Legal Size) leaving a margin of 5 cm. on left side, 3 cms on top and the bottom and 2 cms. on the right side of the paper. The print shall be in Times New Roman Script with double spacing and continuous without break between words and numbers shall be written in words, accompanied by

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all the documents required for registration of said deed.(2) Upon submission of printed Deed of Declaration of Heirship all the parties shall put their name, sign and thumb impression by appearing in the office of the Special Notary, and thereafter the Special Notary shall sign the said deed.(3) All the printed Deeds of Declaration of Heirship registered before the Special Notary alongwith all the supporting documents, until they are preserved in a form of a bound book, as provided in subsection (4), shall be maintained in a provisional file. In the same file, all the Deeds of Declaration of Heirship so

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presented shall be kept as per the serial order of its presentation and their pages numbered serially.(4) At the end of every 200 sheets, the District Special Notary of the concerned district shall initial all the pages of the Deed of Declaration of H e i r s h i p contained in the file and ensure that the sheets are bound in a book.”.
