

TRACING

WILLS

&

SUPPORTING DOCUMENTS

IN

NEW ZEALAND

Compiled by Bruce Garner 15 Oct 2014

New Zealand Wills

Prior to 1842, New South Wales had jurisdiction over our legal system.

Search strategy

1790 – 1842 search New South Wales Probate Index for a NZ Will

1842 – c 1990 search Archives NZ Archway

Kiwi Index

Note I have found the NZSG index has entries that are not found in Archway and Archway has entries not recorded in NZSG Index

Sometimes a search needs to be made of South Australian, New South Wales, Victorian and English Probate Indexes because New Zealanders may have died in these places and their estates were administered from there.

From c 2000 wills are still usually still held by the Court

New Zealand followed England using Courts to seal Probate and Letters of Administration. The first Supreme Court was established in 1842 and the name of the court was changed in 1980 to the High Court.

The Original Will is required for Probate and referenced by the Court.

Probate and Letters of Administration are usually granted at the Court nearest to where the deceased lived e.g. if the deceased died in Hamilton but lived in Christchurch the Probate or Letters of Administration would be granted at Christchurch.

Exceptions

- if the deceased was not resident in New Zealand at the time of death but still owned property in New Zealand, probate would be granted at the nearest court to where the deceased's property was located
- if the deceased owned several properties in New Zealand then probate would be granted at the Wellington High Court
- if the deceased owned property in two different countries then probate would be granted in the country of origin and an **Exemplification of Probate** would be issued and the other country appointing an agent to act with the agent possibly being a law firm or relative
- if the deceased appointed a Trust company as Executor of an Estate, probate may be granted at the Court nearest to the Head Office of the company. The Guardian Trust & N.Z.I head offices were based in Auckland, the Perpetual Trust and Trustee Executor head offices were based in Dunedin.

New Zealand Wills

The deceased's Will was sometimes probated at the Court nearest to where the Executor resided or was convenient for him or her.

Included in a Will/Probate files/applications are supporting documents and these may include Affidavits, Powers of Attorney, Death certificates etc.

Letters of Administration with Will annexed – A testator may have left a Will and for various reasons this Will could not be probated because:

- The Executors named were deceased, incapacitated, bankrupt, overseas or couldn't or would not Act
- The Will may not have been signed, witnessed, dated or have any Executors appointed etc

In the above circumstances application is made to the Court (a bond may be required) by the next of kin usually the spouse or eldest issue or by appointment of the Public Trustee. Letters of Administration with the Will annexed would be issued by the Court appointing an Administrator to administer the Estate.

Since 1929, an Intestate estate follows the line of what the average person would have done if a Will had been made.

Since 1939 an Act protects the family not mentioned in a Will. They are allowed reasonable maintenance from income.

Archives NZ records relating to estates include Succession, Legacy & Residuary Duty Registers. The registers of three duties or taxes payable on estates from 1867 – 1976 a register was kept for each tax. A person's name was entered in each with some appearing until 1910.

Testamentary Registers

Testamentary Registers recorded single death duty payable 1876 – 1962. Death Duties were payable on all estates for which Probate was granted and cover at least half of the deaths in New Zealand. Most of these records are from Wellington areas. However, under the Inland Revenue Act 1974, all registers from 1921 onwards are restricted, and so it is only possible to search the entries up to 1921.

District office testamentary registers are held for the following areas:

Auckland 1876-1968 [BBCB Series 4208]. Held Auckland Office
Napier 1876-1922 [ABCH Series 6488]. Held in Wellington Office
Wellington 1876-1962 [AAEC Series 611]. Held in Wellington Office
Canterbury 1876-1931. Held in Christchurch Office
West Coast 1876-1983. Held in Christchurch Office

A national set of testamentary registers is held at in Wellington Office [AAEC Series 638]. The registers are organised by district, and have an index at the front. They usually contain less detailed information than the district office registers described above.

Public Trust Office

Public Trust Indexes 1879 – 1909 for records relating to Wills administered by the Public Trust and further registers of correspondence 1876 – 1907 relating to the handling of property of hospital patients and absentee owners.

This office was established in the 1870's and many estates from deceased persons were administered through this office. From 1870s to 1930's, the Public Trust Head Office staff administered all these estates throughout New Zealand. These records are held by the Archives New Zealand Wellington office.

After 1930 permanent Public Trust offices were established throughout New Zealand and by 1950 all Wills were probated at the nearest Court to the local Public Trust office.

Before about 1950, all Public Trust wills were probated through the Wellington court. Therefore, if the Public Trust Office were involved in the estate, it is worth checking the Wellington probates, even if the deceased did not live in the Wellington area.

All estates administered by the Public Trust up until the 1950s were published in the *New Zealand Gazette*.

Maori Affairs Department

A small number of files relate to the administration of deceased estates for Maori People are held for the Maori Affairs department from Whanganui and Auckland Native Land Court, Auckland Probate Register 1891 – 1902.

Native Succession Orders for 1911 – 1964 access is via the Inland Revenue Department Lists.

Archives New Zealand

Archives New Zealand holds probate files (which usually include the will of the deceased) from most High Courts throughout New Zealand.

These files contain all the legal documentation required for the court to determine the administration of the deceased person's estate.

They can contain such essential genealogical information as the names of children, relatives and other beneficiaries of the estate, and details of the value of land or other assets held by the deceased.

Even if a person did not make a will, it is still possible that there may be a probate file containing letters of administration for their estate. However, not all estates came before the courts. If the value of the estate was below a certain limit, the will did not have to be probated in court, and so no file will be held at Archives New Zealand.

NZ Probates Indexed

The year in which the first record has been indexed for each High Court and the date to which this index goes up to as shown below:

Court	Starts Indexed up to	
Auckland	1842	1989
Blenheim	1876	1989 (missing 1967-1975)
Christchurch	1851	1979
Dunedin	1851	1990
Gisborne	1879	1973
Greymouth	1868	1980
Hamilton	1904	1994
Hokitika	1865	1953
Invercargill	1864	1988
Lawerence	1876	1909
Masterton	1892	1967
Napier	1862	1977
Nelson	1849	1986
Oamaru	1873	1909
New Plymouth	1867	1981
Palmerston North	1904	1977
Queenstown	1877	1909
Reefton	1874	1909
Rotorua	1973	1988
Tauranga	1987	Not yet indexed
Timaru	1877	1986
Wanganui	1859	1988
Wellington	1843	1987
Westport	1875	1970
Whangarei	1937	1990
Western Otago	1872	1907

Auckland Court includes District Court of Thames from 1900.

Dunedin Court includes District Courts of Queenstown 1876-1909, Naseby 1897-1909, Oamaru 1873-1909 and Lawrence 1876-1909.

Timaru Court includes District Court of Ashburton 1898-1909.

Invercargill Court includes the District Court of West Otago 1872-1904