

ADMINISTRATION.

No. 68 of 1966.

AN ACT to amend the Administration Act, 1903-1965.

[Assented to 12th December, 1966.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Administration Act Amendment Act, 1966.*

(2) In this Act the Administration Act, 1903-1965. is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Administration Act, 1903-1966.

Short title and citation. Reprinted in Vol. 12 of the Reprinted Acts. Approved for Reprint 23rd April, 1958, and amended by Acts Nos. 56 of 1959, 21 of 1960, 57 of 1961, 80 of 1962, 66 of 1963, 57 of 1964 and 78 of 1965

S. 66
amended.

2. Section sixty-six of the principal Act is amended by adding after the word, "death" in the last line of paragraph (a) of subsection (1), the passage, ", and in addition thereto in respect of a person dying after the coming into operation of the Administration Act Amendment Act, 1966, the personal property outside Western Australia comprised in the estate of that deceased person at his death".

S. 66A
added.

3. The principal Act is amended by adding after section sixty-six the following section—

Estate of
deceased
person for
purposes of
duty and
allowable
deductions.

66A. (1) For the purposes of this Part of this Act the following property shall be and be deemed to form part of the estate of a deceased person—

- (a) the real and personal property in Western Australia of the deceased person;
- (b) any property or beneficial interest that under sections seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight of this Act is deemed to be made chargeable with the payment of duty or to form part of the estate of the deceased person;

and, in the case of a person dying after the coming into operation of the Administration Act Amendment Act, 1966, and being domiciled at the time of his death in Western Australia, in addition to the property referred to in paragraphs (a) and (b) of this subsection the personal property of that deceased person situate outside Western Australia.

(2) Subject to this Act the Commissioner in assessing the final balance of the estate of a deceased person for the purposes of this Act shall allow as deductions from the estate—

- (a) in the case of a person dying domiciled in Western Australia, all debts due and owing by him at the time of his death, except debts charged on real property situate outside Western Australia;

- (b) in the case of a person dying domiciled elsewhere than in Western Australia, all debts due and owing by him at the time of his death to persons resident in Western Australia, or contracted to be paid in, or charged on property situate in, Western Australia.

4. Section sixty-nine of the principal Act is repealed and re-enacted with amendments as follows—

S. 69
repealed and
re-enacted.

69 (1) Every executor and administrator or any person ordered to file the statement referred to in section sixty-eight of this Act shall, in accordance with section seventy of this Act, but subject to the provisions of this Act in general and of sections sixty-nine A, sixty-nine B, sixty-nine C, the proviso to and subsection (2) of section seventy-nine, sections ninety-nine to one hundred and eight (both inclusive), one hundred and thirty-four, one hundred and thirty-six and one hundred and thirty-six A of this Act in particular, pay to the Commissioner duty calculated and levied on the final balance of the estate of the deceased person as assessed under this Act.

Duty
payable on
estates of
deceased
persons.

(2) The duty referred to in subsection (1) of this section shall be at such rates declared by Parliament in the First Schedule to the Death Duties (Taxing) Act, 1934, as are appropriate and applicable at the date of the death of the deceased person in respect of the final balance of his estate.

(3) Notwithstanding the other provisions of this section, where a person who is domiciled elsewhere than in Western Australia dies on or after the coming into operation of the Administration Act Amendment Act, 1966, leaving property in Western Australia and the final balance of whose estate as assessed under this Act exceeds the sum of two hundred

and fifty dollars, duty shall be calculated and levied on that final balance at the appropriate rate declared by Parliament in Part IV of the First Schedule to the Death Duties (Taxing) Act, 1934, and in accordance with the provisions of paragraph (3) of that Part.

S. 69C
added.

5. The principal Act is amended by adding after section sixty-nine B, the following section—

Deduction
of funeral
expenses
from gross
value of
estate.

69C. For the purpose of assessing under this Act the final balance of the real and personal estate of a deceased person who dies after the coming into operation of the Administration Act Amendment Act, 1966, the Commissioner shall, in addition to the debts and liabilities of the deceased person charged or chargeable on his estate and the amount (if any) of the liability for income taxes deducted pursuant to section sixty-nine B of this Act, deduct from the gross value of the estate of the deceased person, if at the time of his death he was domiciled in Western Australia, the amount of funeral and burial or cremation expenses not otherwise provided for arising out of his death, but not exceeding the sum of two hundred dollars.

S. 70A
added.

6. The principal Act is amended by adding after section seventy, the following section—

Refund of
duty in
respect of
property
outside
Western
Australia.

70A. (1) Where duty has been paid under this Act in respect of property situate outside Western Australia of any deceased person domiciled at the time of his death in Western Australia and consequent upon the death of that person, duty (other than duty under any Act of the Parliament of the Commonwealth) has been lawfully paid outside Western Australia in respect of that property, the Commissioner shall certify that—

- (a) an amount that bears to the total duty paid in a jurisdiction outside Western Australia the same proportion as the

gross value of that property bears to the gross value of the total property subject to duty in that jurisdiction; or

- (b) an amount that bears to the total duty paid in Western Australia the same proportion as the gross value of the property in a jurisdiction outside Western Australia that is subject to duty under this Act bears to the gross value of all property that forms or is deemed to form part of the estate and all amounts required by this Act to be included in the final balance under this Act,

whichever of those amounts is the less, has been overpaid, and thereupon the Treasurer shall refund to the person entitled to receive the same the amount so certified by the Commissioner.

(2) Where the Commissioner is satisfied in any case such as that referred to in subsection (1) of this section that a refund will become payable, he may in lieu of requiring payment to him of the full amount of the duty make a provisional allowance of the estimated amount of the refund subject to such conditions as he may impose.

(3) For the purposes of this section the Commissioner may adopt as the value of any property situate outside Western Australia the value that was adopted in the place where that property is situate for the purpose of calculating the duty in respect of which the refund is claimed, and may amend any assessment by adopting that value in lieu of the value adopted in making the original assessment.

7. Section seventy-four of the principal Act is amended by adding after the word, "same" in line two of paragraph (a) of subsection (2), the passage, "where such death occurs before the coming into

S. 74
amended.

operation of the Administration Act Amendment Act, 1966, or if made within three years before the death of the person making the same where such death occurs after the coming into operation of that Act”.

S. 75
amended.

8. Section seventy-five of the principal Act is amended—

- (a) by inserting immediately after the section number, “75.” in line one, the subsection designation, “(1)”;
- (b) by inserting after the word, “section” in line thirteen, the passage, “but before the coming into operation of the Administration Act Amendment Act, 1966”; and
- (c) by adding a subsection as follows—

(2) Where a person dies after the coming into operation of the Administration Act Amendment Act, 1966, the beneficial interest held by that deceased person immediately prior to his death in any property as a joint tenant or joint owner with any other person or persons shall on his death be deemed to form part of his estate for the purpose of estimating the duty payable under this Act and be chargeable with duty thereon accordingly.

S. 76
amended.

9. Section seventy-six of the principal Act is amended—

- (a) by inserting immediately after the section number, “76.” in line one, the subsection designation, “(1)”;
- (b) by adding after the word, “donor” in the last line of subparagraph (ii) of paragraph (b), the passage, “if such death occurred

before the coming into operation of the Administration Act Amendment Act, 1966, or not less than three years before the death of the donor if such death occurs after the coming into operation of that Act”;

- (c) by inserting after the word, “death” in line five of paragraph (c), the passage, “in the case of a person whose death occurred before the coming into operation of the Administration Act Amendment Act, 1966, or within three years before his death in the case of a person whose death occurs after the coming into operation of that Act”;
- (d) by inserting after the word, “death” in line six of paragraph (d), the passage, “in the case of a person whose death occurred before the coming into operation of the Administration Act Amendment Act, 1966, or within three years before his death in the case of a person whose death occurs after the coming into operation of that Act”; and
- (e) by adding a subsection as follows—

(2) The provisions of paragraph (a) of subsection (1) of this section do not apply in respect of a person dying after the coming into operation of the Administration Act Amendment Act, 1966. .

10. Section seventy-eight of the principal Act is amended by inserting after the word, “decease” in line seven, the passage, “if the death occurred before the coming into operation of the Administration Act Amendment Act, 1966, or within three years before his decease if the death occurs after the coming into operation of that Act”

S. 78
amended

S. 79
amended.

11. Section seventy-nine of the principal Act is amended—

- (a) by substituting for the word, “For”, being the first word in the section, the passage, “(1) Subject to subsection (2) of this section, for”;
- (b) by substituting for the words, “the six last preceding sections” in lines three and four, the passage, “sections seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight of this Act”; and
- (c) by adding after the proviso, the following subsections—

(2) Where in the case of a deceased person dying domiciled in Western Australia there has in accordance with the provisions of subsection (1) of this section been added to the value of the estate of the deceased the value of the beneficial interest of the deceased in any property held or owned by the deceased at the time of his death jointly with his spouse which entitles the holder to the use and occupation of the land used immediately prior to the death of the deceased as the principal matrimonial home of the deceased by himself and his spouse, the Commissioner shall for the purpose of assessing the final balance under that subsection deduct from the value of the estate of the deceased an amount equal to the value of that beneficial interest but not exceeding the sum of seven thousand five hundred dollars.

(3) In this section—

“home unit or flat” means a separate set of premises, whether or not on the same floor, constructed

for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided either horizontally or vertically;

“land” includes a home unit or flat;

“matrimonial home” means the house and curtilage, or as the case may be, the home unit or flat, of the matrimonial home of the deceased,

but if the land used as a matrimonial home was also used for other purposes, the amount allowed shall be the value of the interest of the deceased in that part of the land used as the matrimonial home.

12. Section eighty-one of the principal Act is ^{S. 81} amended—

- (a) by inserting after the word, “thereunder” in line fourteen of subsection (1), the passage, “before the coming into operation of the Administration Act Amendment Act, 1966,” ; and
- (b) by inserting after the word, “thereof” in line sixteen of subsection (1), the passage, “, or if so accruing after the coming into operation of that Act, shall be liable to duty as if the donor had died within three years from the date thereof”.

13. Section ninety of the principal Act is ^{S. 90} amended by adding after the numerals, “1956” in the last line of subsection (1a), the passage, “; but notwithstanding the foregoing provisions of this subsection, succession duty shall not be payable in respect of the beneficial interest referred to in

paragraph (b) of this subsection if the death by reason of which that beneficial interest accrues occurs after the coming into operation of the Administration Act Amendment Act, 1966”.

S. 166B
amended.

14. Section one hundred B of the principal Act is amended by adding after subsection (3), the following subsection—

(4) This section does not apply to or in respect of the estate of a deceased person dying after the coming into operation of the Administration Act Amendment Act, 1966. .

S. 114
amended.

15. Section one hundred and fourteen of the principal Act is amended by adding after subsection (2), the following subsection—

(3) This section does not apply to or in respect of the estate of a deceased person dying after the coming into operation of the Administration Act, 1966. .

S. 136
amended.

16. Section one hundred and thirty-six of the principal Act is amended—

(a) by inserting after the word, “death” in line four of subsection (1), the passage, “before the coming into operation of the Administration Act Amendment Act, 1966”;

(b) by inserting after the numerals, “1956” in line four of subsection (2), the passage, “but before the coming into operation of the Administration Act Amendment Act, 1966”; and

(c) by substituting for the passage, “1934-1956” in the last line of subsection (2), the numerals, “1934”.

17. The principal Act is amended by adding after section one hundred and thirty-six, the following section—

S. 136A
added.

136A. (1) In this section—

Quick
successions
after com-
mencement
of Adminis-
tration Act
Amendment
Act, 1966.
(Cf. Vict. Act
No. 6890,
s. 22.)

“deceased successor” means a person dying after the coming into operation of the Administration Act Amendment Act, 1966, who as a successor to a predecessor is entitled to—

- (a) any property that formed or was deemed to form part of the estate; or
- (b) any amount required by this Act to be included in the final balance of the estate,

of that predecessor, and who was the widow or widower, or issue of that predecessor;

“predecessor” in relation to a deceased successor means a person who has died, whether before or after the coming into operation of the Administration Act Amendment Act, 1966, within five years immediately preceding the death of the deceased successor.

(2) Where the Commissioner is satisfied that any property that is or is deemed to form part of the estate, or any amount required by this Act to be included in the final balance of the estate, of a deceased successor—

- (a) is or has been substituted for property that formed or was deemed to form part of the estate of a predecessor;
- (b) passed or was deemed to pass from the predecessor directly to the deceased successor; and
- (c) passes or is deemed to pass from the deceased successor to the widow or widower, or issue, of the deceased successor,

the Commissioner shall reduce the net amount of duty payable in the estate of the deceased successor in respect of that property or amount in accordance with the provisions of subsection (3) of this section.

(3) Where the deceased successor dies within six months after the death of the predecessor no duty shall be payable in the estate of the deceased successor in respect of the property or amount referred to in subsection (2) of this section, but if the death of the deceased successor occurs more than six months after the death of the predecessor, the net amount of the duty so payable in the estate of the deceased successor shall be reduced—

- (a) by fifty per centum, if the death of the deceased successor occurs within one year after the death of the predecessor;
 - (b) by forty per centum, if the death of the deceased successor occurs more than one year but within two years after the death of the predecessor;
 - (c) by thirty per centum, if the death of the deceased successor occurs more than two years but within three years after the death of the predecessor;
 - (d) by twenty per centum, if the death of the deceased successor occurs more than three years but within four years after the death of the predecessor;
 - (e) by ten per centum, if the death of the deceased successor occurs more than four years but within five years after the death of the predecessor. .
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