

ADMINISTRATION.

4° Elizabeth II., No. LXII.

No. 62 of 1955.

AN ACT to amend the Administration Act, 1903-1954.

[Assented to 19th December, 1955.]

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, 1955.* Short title and citation.

(2) In this Act the Administration Act, 1903-1954, Act No. 13 of 1903 as reprinted pursuant to the provisions of the Amendments Incorporation Act, 1938, with amendments to and including Act No. 30 of 1954 incorporated, Reprint approved 21st June, 1955.

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Administration Act, 1903-1955.

S. 3
amended.

2. Section three of the principal Act is amended by—

- (a) deleting the word “Curator” in line one of the definition of “Administrator” and substituting therefor the words “Public Trustee”;
- (b) deleting the definition of “Curator”;
- (c) inserting after the definition of “Probate” the following definition:—

“Public Trustee” means the Public Trustee under the Public Trustee Act, 1941-1953.

S. 10
amended.

3. Section ten of the principal Act is amended by deleting the words “subject to the provisions of section eighteen hereof” in line three of subsection (3).

S. 15A
added.

4. A section is inserted in the principal Act after section fifteen as follows:—

15A. For the purposes of sections fourteen and fifteen of this Act—

- (a) the net value of the property of the deceased means the net value thereof at the time the property is in fact distributed pursuant to the provisions of those sections;
- (b) the net amount of any income derived from the property of the deceased prior to the time the property is distributed shall be distributed in the manner following:—
 - (i) as to a sum equal to the amount of simple interest computed

from the date of the death of the deceased at the rate of five pounds per centum per annum on the specified sum, to the husband or wife of the deceased absolutely; and

- (ii) as to the remainder (if any), to the persons entitled in distribution to the net value of the property of the deceased in the same shares as such persons are, after payment of the specified sum, so entitled.

5. Section seventeen of the principal Act is amended by— S. 17
amended.

- (a) deleting the words “Where the net value of the real and personal property of a deceased person heretofore or hereafter dying leaving infant issue does not exceed two thousand pounds” in lines one, two, three and four of subsection (1) and substituting therefor the words “Where a person dies leaving infant issue and the value of the share of the real and personal property of the deceased person to which an infant is entitled in distribution does not exceed five thousand pounds”;

- (b) deleting subsection (2).

6. Section eighteen of the principal Act is amended by adding after the word “Court” in line five of subsection (1) the words “except where the lease, sale or mortgage is for any of the purposes referred to in subsection (3) of section ten or subsection (2) of section ninety-six of this Act”. S. 18
amended.

7. Section twenty-six of the principal Act is amended by deleting the word “Curator” in line two of subsection (2) and substituting therefor the words “Public Trustee”. S. 26
amended.

S. 45
amended.

8. Section forty-five of the principal Act is amended by deleting the word "Curator" in line five of subsection (1) and substituting therefor the words "Public Trustee".

S. 59
amended.

9. Section fifty-nine of the principal Act is amended by deleting the words "one thousand" where they appear in line two of subsection (1) and again in line three of subsection (3) and substituting therefor in each case the words "three thousand".

S. 69B
added.

10. A section is inserted in the principal Act after section sixty-nine A as follows:—

Deduction
of taxes
from gross
value of
estate.
Cf. Common-
wealth Act
No. 16 of
1947, s. 5.

69B. (1) For the purpose of assessing under this Act the final balance of the real and personal estate of a deceased person, the Commissioner shall, in addition to the debts and liabilities of the deceased person charged or chargeable on his estate, deduct from the gross value of the estate the amount of the liability for Federal and State income taxes assessed or assessable in respect of income derived by the deceased person before the date of his death, and Federal income taxes assessed or assessable in respect of any amount which is included in the assessable income of the trust estate of the deceased person in accordance with the provisions of section one hundred and one A of the Income Tax and Social Services Contribution Assessment Act, 1936-1954 (Commonwealth Act), or of that Act as amended at any time, and which is included in the estate for the purposes of this Act.

(2) No deduction under this section shall be allowed in respect of—

- (a) provisional tax and contribution payable in pursuance of the Income Tax and Social Services Contribution Assessment Act, 1936-1954 (Commonwealth Act), or of that Act as amended at any time; or
- (b) taxes paid before the date of the death of the deceased person.

(3) The provisions of subsection (1) of this section shall apply to all assessments, and all amendments of assessments, notice of which is or has been given on or after the coming into operation of the Administration Act Amendment Act, 1955.

Provided that the provisions of that subsection shall not operate to prevent or affect the allowance of a deduction claimed before the commencement of that Act.

11. Section ninety-six of the principal Act is amended by deleting the words and brackets "(subject to section eighteen of this Act)" in lines three and four of subsection (2). S. 96
amended.

12. Section one hundred of the principal Act is amended by deleting the word "section" in line one and substituting therefor the words "sections one hundred A and". S. 100
amended.

13. A section is inserted in the principal Act after section one hundred as follows:— S. 100A
added.

100A. Notwithstanding anything contained in section one hundred of this Act, when a person dies after the coming into operation of the Administration Act Amendment Act, 1955, then, subject to section one hundred and one of this Act, in so far as any beneficial interest passes to a person *bona fide* resident of and domiciled in Western Australia, and occupying towards the person so dying the relationship of wife or child under sixteen years of age, duty shall be calculated so as to charge in respect of such beneficial interest—

- (a) if the final balance of the estate of the deceased person does not exceed the sum of six thousand pounds, one-half of the percentage or rate;
- (b) if such final balance exceeds the sum of six thousand pounds but does not

exceed the sum of eight thousand pounds, two-thirds of the percentage or rate;

- (c) if such final balance exceeds the sum of eight thousand pounds but does not exceed the sum of ten thousand pounds, three-quarters of the percentage or rate.

S. 101
amended.

14. Section one hundred and one of the principal Act is amended by—

- (a) inserting after the word “death” in line two of subsection (1) the letter “a” in brackets thus “(a)”;
- (b) adding after the word “aforesaid” in line eleven of subsection (1) the following:—
or (b) in the case of a person dying after the coming into operation of the Administration Act Amendment Act, 1955, was, within the meaning of sections one hundred and seven B or one hundred and seven E of the Repatriation Act, 1920-1954 (Commonwealth Act), or of that Act as amended at any time, a member of the Forces on war service. ;
- (c) deleting the words “Australian Soldiers’ Repatriation Act, 1920-1941” in lines four and five of the second paragraph of subsection (1) and substituting therefor the words “Repatriation Act, 1920-1954 (Commonwealth Act), or of that Act as amended at any time”;
- (d) inserting after the word “hundred” in line two of subsection (2) the words “or section one hundred A”;
- (e) deleting the words “section twenty-nine of the Act No. 28 of 1934” in lines four and

five of paragraph (c) of subsection (2) and substituting therefor the words "section ninety of this Act";

- (f) inserting after the word "pounds" in line seven of paragraph (i) of subsection (2) the words "in the case of a person dying before the coming into operation of the Administration Act Amendment Act, 1955, or does not exceed two thousand five hundred pounds in the case of a person dying after the coming into operation of that Act";
- (g) deleting the figures "1941" in line nine of paragraph (i) of subsection (2) and substituting therefor the figures "1942";
- (h) inserting after the word "pounds" in line six of paragraph (ii) of subsection (2) the words "in the case of a person dying before the coming into operation of the Administration Act Amendment Act, 1955, or two thousand five hundred pounds in the case of a person dying after the coming into operation of that Act";
- (i) deleting the words "of the Act" in line ten of paragraph (ii) of subsection (2) and substituting therefor the words "or section one hundred A (as the case may be) of this Act";
- (j) inserting after the word "pounds" in line six of paragraph (iii) of subsection (2) the words "in the case of a person dying before the coming into operation of the Administration Act Amendment Act, 1955, or two thousand five hundred pounds in the case of a person dying after the coming into operation of that Act";
- (k) inserting after the word "hundred" in line eighteen of paragraph (iii) of subsection (2) the words "or section one hundred A (as the case may be)".

S. 139
amended.

15. Section one hundred and thirty-nine of the principal Act is amended by deleting the word "Curator" in line eight and substituting therefor the words "Public Trustee".

S. 142
amended.

16. Section one hundred and forty-two of the principal Act is amended by—

- (a) deleting the words "Curator has obtained administration of" in lines one and two of subsection (1) and substituting therefor the words "Public Trustee of Western Australia is administering";
 - (b) inserting after the word "Curator" in line five of subsection (1) the words "or Public Trustee";
 - (c) adding after the word "Curator" in line nine of subsection (1) the words "or Public Trustee";
 - (d) deleting the word "Curator" in line two of subsection (2) and substituting therefor the words "Public Trustee of Western Australia";
 - (e) deleting the words "the Curator" in lines three and four of subsection (2) and substituting therefor the words "such Public Trustee".
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