

ADMINISTRATION.

No. 57 of 1984.

AN ACT to amend the Administration Act 1903.

[Assented to 24 October 1984.]

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 Amendment Act 1984*.

Short title
and principal
Act.

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

Reprinted as
approved 23
December
1980 and
amended by
Act. No. 48
of 1982.

Section 1
repealed
and
substituted.

2. Section 1 of the principal Act is repealed and the following section is substituted—

Short title
and
construction.

“ 1. This Act may be cited as the Administration Act 1903 and shall be construed as one with the Supreme Court Act 1935. ”.

Section 12B
inserted.

3. After section 12A of the principal Act the following section is inserted—

Relationships
of the whole
and the half
blood.

“ 12B. Where a person dies intestate as respects all or any of his property, for the purpose of determining who is entitled to participate in the distribution of that part of his estate to which the intestacy applies it is immaterial whether a relationship is of the whole blood or of the half blood. ”.

Section 14
amended.

4. Section 14 of the principal Act is amended—

(a) in the Table following subsection (1)—

(i) in item 2, by deleting—

“ the issue shall be entitled to the other two-thirds (the division among the issue being *per stirpes* and not *per capita*) ”

in paragraph (b) and substituting the following—

“ the issue shall be entitled in accordance with subsection (2b) to the other two-thirds ”;

(ii) in item 3, by deleting—

“ in equal shares to the other half (the division among those children being *per stirpes* and not *per capita*) ”

in both places where it occurs in paragraph (b) and substituting the following—

“ in accordance with subsection (3a) to the other half ”;

(iii) in item 5, by deleting—

“ to the whole of the intestate property (the division among them to be *per stirpes* and not *per capita*) ”

and substituting the the following—

“ in accordance with subsection (2b) to the whole of the intestate property ”;

(iv) in item 6, by deleting—

“ in equal shares to the other half (the division among those children being *per stirpes* and not *per capita*) ”

in paragraph (b) and substituting the following—

“ in accordance with subsection (3a) to the other half ”;

(v) in item 8, by deleting—

“ in equal shares to the whole of the intestate property (the division among those children being *per stirpes* and not *per capita*) ”

and substituting the following—

“ in accordance with subsection (3a) to the whole of the intestate property ”;

and

(vi) by deleting item 9 and substituting the following items—

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| <p>“ 9. dies leaving no husband or wife and no issue, parent, brother, sister or child of a brother or sister but leaving a grandparent or grandparents</p> | <p>the grandparent or grandparents shall be entitled (in equal shares where more than one survive the intestate) to the whole of the intestate property;</p> |
| <p>10. dies leaving no husband or wife and no issue, parent, brother, sister, child of a brother or sister, or grandparent but leaving an uncle or aunt or a child of an uncle or aunt</p> | <p>the uncles and aunts of the intestate and the children of deceased uncles and aunts of the intestate shall be entitled in accordance with subsection (3a) to the whole of the intestate property but in applying that subsection for the purposes of this item a reference in that subsection to a brother or sister, or a child of a brother or sister, of the intestate shall be construed as a reference to an uncle or aunt, or a child of an uncle or aunt, of the intestate, as the case may be;</p> |

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|--|--|
| 11. dies leaving no husband or wife and no issue, parent, brother, sister, child of a brother or sister, grandparent, uncle, aunt or child of an uncle or aunt | the whole of the intestate property passes to the Crown by way of escheat. |
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”;

(b) by inserting after subsection (2) the following subsections—

“ (2a) In subsection (2b), a reference to the entitled issue of an intestate means issue of the intestate surviving the intestate and not also being issue of another person who survived, and was issue of, the intestate.

(2b) Where, under the Table, the issue of an intestate is or are entitled to a portion or the whole of the intestate property (which portion or whole, as the case may be, is referred to in this subsection as “the relevant property”)—

(a) where a person is the only entitled issue of the intestate, then that person is entitled to all of the relevant property;

(b) where there are 2 or more entitled issue of the intestate and any of them is a child of the intestate, then the relevant property shall be divided into as many equal parts as there are children of the intestate who—

(i) survived the intestate;
or

(ii) left issue who survived the intestate,

and a child of the intestate who so survived shall be entitled to one of those parts;

(c) where a person did not survive the intestate but left issue who so survived and that person would, if he had survived the intestate, have been entitled—

(i) under paragraph (a), to all of the relevant property, then the entitled issue of the intestate being also issue of that person shall be entitled to all of the relevant property;

(ii) under paragraph (b), to a part of the relevant property, then the entitled issue of the intestate being also issue of that person shall be entitled to that part of the relevant property,

and where there are 2 or more entitled issue of the intestate being also issue of that person their entitlement under subparagraph (i) or (ii) shall be divided between them under the provisions of this Act (including this paragraph) as if that person had died intestate at the time that the intestate in fact died, the entitlement to be divided were the intestate property of that person, and no person other than those issue were entitled to participate in the distribution thereof. ”;

(c) by inserting after subsection (3) the following subsection—

“ (3a) Where, under the Table, the brothers and sisters of the intestate and the children of deceased brothers and sisters of the intestate are entitled to a portion or the whole of the intestate property (which portion or whole, as the case may be, is referred to in this subsection as “the relevant property”)—

(a) where only one such person survives the intestate, then that person is entitled to all of the relevant property;

(b) where 2 or more such persons survive the intestate and any of them is a brother or sister of the intestate, then the relevant property shall be divided into as many equal parts as there are brothers and sisters of the intestate who—

(i) survived the intestate;
or

(ii) left children who survived the intestate,

and a brother or sister of the intestate who so survived shall be entitled to one of those parts;

(c) where any brother or sister did not survive the intestate but left a child or children who so survived, that child shall be entitled or, where there are children, those children, shall be entitled in equal shares—

(i) where that brother or sister would have been entitled under para-

graph (a) to all of the relevant property had he or she survived the intestate, to all of the relevant property;

(ii) where that brother or sister would have been entitled under paragraph (b) to a part of the relevant property had he or she survived the intestate, to that part of the relevant property. ”;

(d) in subsection (8), by deleting “subsection (9) of this section” and substituting the following—

“ subsections (9) and (10) ”; and

(e) by inserting after subsection (9) the following subsection—

“ (10) The estates of all persons who have died intestate as to the whole or any part thereof before the coming into operation of the Administration Amendment Act 1984 shall be distributed in accordance with the enactments and rules of law which would have applied to them if that Act had not been passed. ”.

5. Section 25 of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph—

Section 25
amended.

“ (a) any person referred to in the Table following section 14 (1); ”.

Section 141
amended.

6. Section 141 of the principal Act is amended in subsection (2) by deleting "next of kin" and substituting the following—

“ of the persons to whom the Table following section 14 (1) would refer if there was an intestacy as to all or any of the property in the estate ”.
