

ADMINISTRATION.

No. 107 of 1970.

AN ACT to amend the Administration Act, 1903-1970.

[Assented to 8th December, 1970.]

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:—

Short title
and citation.

1. (1) This Act may be cited as the *Administration Act Amendment Act, 1970*.

(2) In this Act the Administration Act, 1903-1970, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Administration Act, 1903-1970.

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ber, 1967, and
amended by
Acts Nos.
2 of 1969 and
21 of 1970.

2. (1) Sections 3, 4 and 11 of this Act shall come into operation on the first day of January, nineteen hundred and seventy-one and shall apply to the estate of a person whether dying before or after the coming into operation of this Act; the other provisions of this Act shall come into operation on the date this Act receives the Royal Assent.

Commence-
ment.

(2) The provisions of the principal Act as in force immediately before the commencement of this Act shall apply in the same manner and to the same extent to and with respect to the estates of persons dying before the first day of July, nineteen hundred and seventy as those provisions applied immediately before the coming into operation of this Act.

3. Section 29 of the principal Act is amended—

(a) by adding after the section number “29.” the subsection designation “(1)”; and

(b) by adding a subsection as follows—

Amendment
to s. 29.
(Court may
revoke
administra-
tion or order
new or
additional
bond.)

(2) Except where the Master otherwise directs, a grant of administration shall not be issued and the seal of the Court shall not be affixed to an administration granted in another part of Her Majesty’s dominions until the estate to which the administration relates has been assessed for duty under Part V of this Act. .

4. Section 62 of the principal Act is repealed and re-enacted as follows—

S. 62 repealed
and
re-enacted.

62. The seal of the Court shall not be affixed to any probate or administration granted in another part of Her Majesty’s dominions until such bond has been entered into, by the executor or administrator therein named or his attorney, as would have been required if such probate or administration had been originally granted by the Court. .

Issue of
sealed
probate or
administra-
tion before
payment of
duty.

Amendment
to s. 66.
(Executor
or adminis-
trator to
file state-
ment.)

5. Section 66 of the principal Act is amended—

(a) by deleting the words “in the probate office of the Supreme Court” in line three of subsection (1) and substituting the words “in the office of the Commissioner”;

(b) by adding after subsection (1) a subsection as follows—

(1a) (a) The statement referred to in subsection (1) of this section shall be accompanied by a certified copy of the death certificate of the deceased person and a certified copy of the last will and testament of the deceased person and any codicil thereto, if any.

(b) The value of the assets and the amount of the liabilities shown in the statement shall be shown in Australian currency to the nearest dollar and fractions of a dollar shall be disregarded. ;
and

(c) by adding after the word “statement” in line three of subsection (4) the words “and the Commissioner may alter or vary a statement”.

Amendment
to s. 69.
(Duty
payable on
estates of
deceased
persons.)

6. Subsection (1) of section 69 of the principal Act is amended—

(a) by adding after the letter “C” in line six the passage “, sixty-nine D, sixty-nine E, sixty-nine F”; and

(b) by deleting the passage “the proviso to and subsection (2) of section seventy-nine,” in lines six and seven.

Amendment
to s. 69C.
(Deduction
of funeral
expenses
from gross
value of
estate.)

7. Section 69C of the principal Act is amended by deleting the passage “, but not exceeding the sum of two hundred dollars” in lines thirteen and fourteen.

8. The principal Act is amended by adding after section 69C a section as follows— S. 69D added.

69D. Where the whole or part of the estate of a deceased person who died on or after the first day of July, nineteen hundred and seventy, passes to the spouse of the deceased person, the Commissioner shall, for the purposes of, and before, assessing the duty payable on that whole or that part, deduct an amount of ten thousand dollars from the final balance and that amount from the whole or the part. .

Deduction of \$10,000 from value of assets passing to spouse.

9. The principal Act is amended by adding a section as follows— S. 69E added.

69E. (1) Where the whole or part of the estate of a deceased person who died on or after the first day of July, nineteen hundred and seventy, passes to—

Deductions for spouse with dependent child and dependent child with no surviving parents.

- (a) the spouse of the deceased person and that spouse has a child who was a dependent child of the deceased person at the date of his death;
- (b) a dependent child of the deceased person; or
- (c) a dependent child of the deceased person and such child has no surviving parents,

the Commissioner shall, for the purpose of, and before, assessing the duty payable on that whole or that part, deduct from the final balance—

- (d) in a case to which paragraph (a) of this subsection applies—

an amount of five thousand dollars in respect of each such dependent child, in addition to the sum of ten thousand dollars referred to in section sixty-nine D of this Act;

- (e) in a case to which paragraph (b) applies—an amount of five thousand dollars in respect of each such dependent child; and
- (f) in a case to which paragraph (c) of this subsection applies—an amount of ten thousand dollars for each such dependent child,

and for the purpose of assessing the duty payable on the value of the assets in the estate of the deceased person passing to any person to whom Table 1 of Part V of the First Schedule to the Death Duties (Taxing) Act, 1934, applies, the final balance as reduced in accordance with this section, shall be applied.

(2) Where a part of the estate of a deceased person who died on or after the first day of July, nineteen hundred and seventy, passes to the spouse of the deceased person and to a dependent child of the deceased person, if the amount of the value of the part so passing to such child is less than the deduction of five thousand dollars referred to in subsection (1) of this section, the amount by which that deduction exceeds the amount of that value, shall, for the purpose of assessing duty payable on the part passing to the spouse, be deducted from the value of that part without affecting the operation of that subsection.

(3) In this section “dependent child” means a child who is under the age of sixteen years, a student child under the age of twenty-one years and a wholly dependent adult child as defined in paragraph (4) of Part IV of the First Schedule to the Death Duties (Taxing) Act, 1934. .

S. 69F added.

10. The principal Act is amended by adding a section as follows—

Deduction
for personal
effects and
furniture.

69F. For the purposes of assessing under this Act the final balance of the estate of a deceased person who died on or after the first day of July,

nineteen hundred and seventy and assessing the duty payable on the whole or part of the estate that passes to a person to whom Table 1 of Part V of the First Schedule to the Death Duties (Taxing) Act, 1934, applies, part of the value in the aggregate of the furniture and personal effects in that estate not exceeding the sum of one thousand five hundred dollars shall be deducted, where the whole of the furniture and personal effects or part thereof passed to any such person. .

11. Section 71 of the principal Act is amended—

- (a) by deleting the subsection designation “(1)” in line one; and
- (b) by repealing subsections (2), (3), (4) and (5).

Amendment to s. 71.
(No will to be registered or admissible in evidence until proved.)

12. Subsection (3) of section 74 of the principal Act is repealed and re-enacted as follows—

(3) Where in a period of three years prior to the date of the death of a person, gifts have been made by that person that in the aggregate exceed an amount of two thousand dollars, this section does not apply in relation to any part of the firstmentioned amount that does not exceed two thousand dollars and which amount passes to any person to whom Table 1 of Part V of the First Schedule to the Death Duties (Taxing) Act, 1934, applies. .

Amendment to s. 74.
(Gifts *inter vivos*.)

13. Section 79 of the principal Act is amended—

- (a) by substituting for the passage “(1) Subject to subsection (2) of this section, for” in line one the word “For”; and
- (b) by repealing subsections (2) and (3).

Amendment to s. 79.
(Estimating duty for purposes of preceding sections.)

Amendment
to s. 125.
(Power of
Commissioner to
obtain
information
and inspect
documents.)

14. Subsection (2) of section 125 of the principal Act is amended by substituting for the words "affidavit filed in the Probate Office of the Court" in line three the words "statutory declaration lodged in the office of the Commissioner".

Amendment
to s. 136A.
(Quick
successions
after com-
mencement
of Adminis-
tration Act
Amendment
Act, 1966.)

15. Section 136A of the principal Act is amended—

- (a) by substituting for the passage "after the coming into operation of the Administration Act Amendment Act, 1966," in lines one, two and three of the definition "deceased successor" the passage "on or after the first day of July, nineteen hundred and seventy";
- (b) by substituting for the passage "the widow or widower, or issue of that predecessor" in lines eleven and twelve of the definition "deceased successor" the passage "the widow, widower, child, other issue, step child, wholly dependent parent of that predecessor or ex-nuptial child if the predecessor is a female" ;
- (c) by substituting for the passage "or after the coming into operation of the Administration Act Amendment Act, 1966, within five years" in lines three, four and five of the definition "predecessor" the passage " , on or after the first day of July, nineteen hundred and seventy within ten years";
- (d) by repealing and re-enacting subsection (2) as follows—

(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) passed or was deemed to pass from the predecessor directly to the deceased successor; and

- (b) passes or is deemed to pass from the deceased successor to the widow or widower, child or other issue, step child, wholly dependent parent of the deceased successor or ex-nuptial child if the deceased successor is a female,

on which such property or amount duty has been paid under this Act a deduction of the amount of the value of that property or that amount on which such duty was paid shall be allowed on the final balance of the estate passing to any person referred to in paragraph (b) of this subsection in accordance with the provisions of subsection (3) of this section. ;

- (e) by repealing and re-enacting subsection (3) as follows—

(3) Where the deceased successor dies within one year after the death of the predecessor a deduction of the whole of the amount that would be assessed under this Act in the estate of the deceased successor in respect of the amount of the value of the property or amount referred to in subsection (2) of this section, shall be allowed, but if the death of the deceased successor occurs more than twelve months after the death of the predecessor the deduction that shall be allowed on the amount of the value of that property or that amount in the estate of the deceased successor shall be determined in accordance with the following conditions—

- (a) if the deceased successor died in the second year after the predecessor, ninety per centum;
- (b) if the deceased successor died in the third year after the predecessor, eighty per centum;
- (c) if the deceased successor died in the fourth year after the predecessor, seventy per centum;

- (d) if the deceased successor died in the fifth year after the predecessor, sixty per centum;
 - (e) if the deceased successor died in the sixth year after the predecessor, fifty per centum;
 - (f) if the deceased successor died in the seventh year after the predecessor, forty per centum;
 - (g) if the deceased successor died in the eighth year after the predecessor, thirty per centum;
 - (h) if the deceased successor died in the ninth year after the predecessor, twenty per centum;
 - (i) if the deceased successor died in the tenth year after the predecessor, ten per centum. ; and
- (f) by adding after subsection (3) a subsection as follows—

(4) Where a deduction is claimed under this section the executor or administrator or some person on his behalf shall furnish the Commissioner with a claim for the deduction verified by statutory declaration, but the Commissioner may require any further statement, declaration or information that he thinks necessary. .

16. Paragraph (e) of subsection (2) of section 140 of the principal Act is repealed.