

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Bill Stefaniak)

Guardianship and Management of Property Amendment Bill 2005

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Guardianship and Management of Property Amendment Bill 2005

A Bill for

An Act to amend the *Guardianship and Management of Property Act 1991*, and
for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as
follows:

1 **1 Name of Act**

2 This Act is the *Guardianship and Management of Property*
3 *Amendment Act 2005*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Guardianship and Management of Property*
10 *Act 1991*.

11 *Note* This Act also amends the *Public Trustee Act 1985* (see s 11 and s 12).

12 **4 New section 8AA**

13 *before section 8A, insert*

14 **8AA Manager for missing person's property**

- 15 (1) This section applies if the tribunal is satisfied, on application, that—
- 16 (a) someone is a missing person; and
- 17 (b) the person usually lives in the ACT; and
- 18 (c) while the person is missing, there is, or is likely to be, a need
19 for a decision in relation to the person's financial matters or
20 property; and
- 21 (d) the person's interests will be significantly adversely affected if
22 a manager is not appointed.

- 1 (2) The tribunal may be satisfied that a person is a missing person only
2 if satisfied that—
- 3 (a) it is not known whether the person is alive; and
4 (b) reasonable efforts have been made to find the person; and
5 (c) for at least 90 days, the person has not contacted—
- 6 (i) anyone who lives at the person's last-known home
7 address; or
8 (ii) any relative or friend of the person with whom the person
9 is likely to communicate.
- 10 **Examples of contact**
- 11 1 telephone call
12 2 physical sighting of the person
- 13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).
- 16 (3) The tribunal may, by order, appoint a manager to manage all, or a
17 stated part, of the missing person's property, with the powers that
18 the tribunal is satisfied are necessary or desirable to allow the
19 manager to make decisions in relation to the property in accordance
20 with the decision-making principles as if the missing person were a
21 protected person.
- 22 *Note* The tribunal's power to appoint a manager is restricted under s 8A.
- 23 (4) The powers that may be given to the manager are the powers the
24 person would have if the person were able to exercise them.
- 25 (5) An application for the appointment of a manager under this section
26 may be made by any of the following:
- 27 (a) a domestic partner of the person;
28 (b) a relative of the person;

- 1 (c) a business partner or employee of the person;
2 (d) the Attorney-General;
3 (e) the public trustee;
4 (f) the public advocate;
5 (g) anyone else who has an interest in the property of the person.

6 **5 Removal by tribunal**
7 **Section 31**

8 *omit*

9 The tribunal

10 *substitute*

- 11 (1) The tribunal

12 **6 New section 31 (2)**

13 *insert*

- 14 (2) The tribunal may, by order, remove a manager of a missing person's
15 property if satisfied, on application by the person or anyone else,
16 that—
17 (a) the person is alive; or
18 (b) the person is dead; or
19 (c) the person may be presumed to be dead.

20 **7 Notice of inquiry**
21 **New section 35 (1) (f)**

22 *insert*

- 23 (f) if an application is made under section 8AA (Manager for
24 missing person's property)—the applicant; and

1 **8 Section 35 (1) (f) to (g) (as amended)**

2 *renumber as section 35 (1) (f) to (h)*

3 **9 Emergency appointments**

4 **Section 67 (1) (b)**

5 *substitute*

6 (b) under section 8 or section 8AA, appoint the public advocate or
7 the public trustee to be a manager of a person's property;

8 **10 Dictionary, definition of *manager***

9 *substitute*

10 ***manager*** means a manager under any of the following sections:

- 11 • section 8 (Appointment and powers of managers)
12 • section 8AA (Manager for missing person's property)
13 • section 12 (Recognition of interstate etc guardians and
14 managers)
15 • section 32 (Surviving or substitute guardians etc).

16 **11 Public Trustee Act 1985, section 34 (1) (b) and (c)**

17 *omit*

18 **12 Public Trustee Act 1985, section 34 (1) (d) to (f)**
19 **(as amended)**

20 *renumber as section 34 (1) (b) to (d)*

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2005.

2 Notification

Notified under the Legislation Act on 2005.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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