

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

PUBLIC TRUSTEE (MISCELLANEOUS AMENDMENTS) ORDINANCE 1985

No. 9 of 1985

The purpose of this Ordinance is to make amendments to A.C.T. legislation consequential upon the establishment of a Public Trustee for the A.C.T. (by the Public Trustee Ordinance 1985).

Under that Ordinance the Public Trustee takes over functions formerly exercised by the Curator of Estates of Deceased Persons.

The office of Curator of Estates of Deceased Persons ("the Curator") was established by the Administration and Probate Ordinance 1929.

Details of the Ordinance are as follows:-

Section 1 provides that the Ordinance may be cited as the Public Trustee (Miscellaneous Amendments) Ordinance 1985.

Section 2 provides for the Minister for Territories to set a commencement date for the Ordinance by notice in the Gazette. This is to enable administrative arrangements to be completed before the Ordinance comes into operation.

Section 3 provides that the Principal Ordinance referred to in Part II of the proposed Ordinance is the Administration and Probate Ordinance 1929.

Section 4 amends section 5 - the interpretation section - of the Principal Ordinance by providing that "Public Trustee" has the same meaning as in the Public Trustee Ordinance 1985.

Section 5 repeals and replaces section 10C of the Principal Ordinance. The effect is to empower the Supreme Court to grant probate of a will to the Public Trustee of the A.C.T., as well as to a public trustee of a State or the Northern Territory (where a deceased person has named that public trustee as executor of his will).

Sections 6 to 17 (inclusive) amend various provisions of the Principal Ordinance by substituting references to the Public Trustee for references to the Curator.

Section 18 and Schedule 1 make a number of consequential amendments to the Administration and Probate Ordinance similar to those made by sections 6 to 17. In addition they repeal certain provisions relating to the Curator in the Administration and Probate Ordinance, which are no longer required as their subject matter is dealt with in the Public Trustee Ordinance.

Section 19 and Schedule 2 make similar amendments of a consequential nature to various other A.C.T. Ordinances.

Section 20 defines the terms "commencement date", "Curator" and "Public Trustee" as used in sections 21 - 24.

Section 21 provides that rights, property and assets vested in the Curator immediately before the commencement date of the Ordinance vested, on the commencement date, in the Public Trustee, and that debts, liabilities and obligations of the Curator were similarly transferred to the Public Trustee. Where the Curator had begun to administer an estate before the commencement date, the Public Trustee is entitled to complete administration of the estate.

Section 22 provides that any contract entered into by the Curator subsisting at the commencement date continues as if the Public Trustee were substituted for the Curator, and that in other instruments in force on the commencement date in which there is a reference to the Curator, such a reference is to be taken as a reference to the Public Trustee.

Section 23 provides that the Public Trustee is substituted for the Curator in proceedings pending in any court or tribunal in which the Curator was a party immediately before the commencement date.

Section 24 provides that the Registrar of Titles is required to make appropriate entries in his registers where the Public Trustee notifies the Registrar that land situated in the A.C.T. has become vested in him by virtue of section 21.

Authorised by the Attorney-General

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