



Australian Capital Territory

# **Family Provision Act 1969**

**A1969-15**

**Republication No 6**

**Effective: 19 May 2008 – 10 September 2012**

Republication date: 19 May 2008

Last amendment made by A2008-14

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Family Provision Act 1969* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 May 2008. It also includes any amendment, repeal or expiry affecting the republished law to 19 May 2008.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Family Provision Act 1969

## Contents

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	Page
1 Name of Act	2
2 Dictionary	2
3 Notes	2
4 Sealing of probate etc granted outside ACT	2
7 Eligibility	3
8 Family provision orders	5
9 Time for making application under s 8 (1)	7
9A Variation, suspension and discharge of orders	7
10 Service of application for order under s 8 or s 9A	8
11 Form of order and burden of provision	9
12 Class fund	9
13 Property subject to power of appointment	10
14 Presumption of death	12

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R6  
19/05/08

Family Provision Act 1969  
Effective: 19/05/08-10/09/12

contents 1

## Contents

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	Page
15 Exoneration of part of estate from provision	13
16 Operation of order for provision out of estate of deceased person	13
18 Certified copy of order	14
19 Permission of court necessary to validity of mortgage, charge or assignment of an interest	14
20 Property available for provision	14
21 Protection of administrator	15
22 Relevance of testator's reasons	15
 <b>Dictionary</b>	 17
 <b>Endnotes</b>	
1 About the endnotes	18
2 Abbreviation key	18
3 Legislation history	19
4 Amendment history	20
5 Earlier republications	23



Australian Capital Territory

## Family Provision Act 1969

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An Act to ensure that the family of a deceased person receives adequate provision out of his or her estate

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**1 Name of Act**

This Act is the *Family Provision Act 1969*.

**2 Dictionary**

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*intestate*—see the *Administration and Probate Act 1929*, section 44 (1).' means that the term 'intestate' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

**3 Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act s 127 (1), (4) and (5) for the legal status of notes.

**4 Sealing of probate etc granted outside ACT**

- (1) This section applies if—
  - (a) probate of a will or letters of administration of an estate is granted outside the ACT; and
  - (b) the probate or administration is sealed with the seal of the Supreme Court under the *Administration and Probate Act 1929*, section 80.
- (2) The probate or administration is taken, for this Act, to be probate of the will, or letters of administration of the estate, granted in the ACT on the date when it was sealed.

## **7 Eligibility**

- (1) Subject to this section, each of the following persons is entitled to make application to the Supreme Court for provision out of the estate of a deceased person:
  - (a) a partner of the deceased person;
  - (b) a person (other than a partner of the deceased person) who was in a domestic relationship with the deceased person for 2 or more years continuously at any time;
  - (c) a child of the deceased person;
  - (d) a stepchild of the deceased person;
  - (e) a grandchild of the deceased person;
  - (f) a parent of the deceased person.
- (2) A stepchild of a deceased person is not entitled to make an application to the Supreme Court for provision out of the estate of the deceased person unless the stepchild was maintained by the deceased person immediately before his or her death.
- (3) A grandchild of a deceased person is not entitled to make an application to the Supreme Court for provision out of the estate of the deceased person unless—
  - (a) the parent of the grandchild who was a child of the deceased person died before the deceased person died; or
  - (b) 1 or both of the parents of the grandchild was alive at the date of the death of the deceased person and the grandchild was not maintained by that parent or by either of those parents immediately before the death of the deceased person.

- (4) A parent of a deceased person is not entitled to make an application to the Supreme Court for provision out of the estate of the deceased person unless—
- (a) the parent was maintained by the deceased person immediately before his or her death; or
  - (b) the deceased person was not survived by any partner or any of the children of the deceased person.
- (7) For this section, a person shall not be regarded as having been maintained by the deceased person immediately before his or her death unless—
- (a) there was in force at that time an order of a court requiring the deceased person to pay maintenance to or for the benefit of the other person; or
  - (b) the deceased person was, at that time, whether under a written agreement or otherwise, maintaining that other person or making a contribution to the maintenance of that other person, being a contribution that, in all of the circumstances, can be regarded as other than a nominal contribution; or
  - (c) a court would, if the deceased person were still living, have power to make an order requiring the deceased person to pay maintenance to or for the benefit of the other person.
- (8) For this section, a child of the deceased person born alive after the death of that person shall be regarded as having been born before the death of the deceased person.
- (9) In this section:
- domestic relationship***—see the *Domestic Relationships Act 1994*, section 3.
- partner***, of a deceased person, means someone who—
- (a) was the domestic partner of the person at any time; and



- (b) either—
  - (i) was the person's spouse or civil partner at any time; or
  - (ii) was the person's domestic partner continuously for 2 or more years at any time; or
  - (iii) is the parent of a child of the person.

*Note* For the meaning of *domestic partner*, see Legislation Act, s 169.

## **8 Family provision orders**

- (1) On application by a person entitled, under section 7, to apply for provision out of the estate of a deceased person, the Supreme Court may order that the provision as that court thinks fit be made for the applicant out of the estate.
- (2) The Supreme Court shall only make an order under subsection (1) if satisfied, in consideration of the criteria set out in subsection (3), that as at the date of the order, adequate provision for the proper maintenance, education or advancement in life of the applicant is not available—
  - (a) under the will of the deceased; or
  - (b) if the deceased died intestate—under the law applicable to that intestacy; or
  - (c) under that will and that law combined.
- (3) The criteria for the Supreme Court's decision under subsection (2) in relation to the deceased and the applicant are as follows:
  - (a) the character and conduct of the applicant;
  - (b) the nature and duration of the relationship between the applicant and the deceased;

- (c) any financial and non-financial contributions made directly or indirectly by or on behalf of either or both the applicant and the deceased to the acquisition, conservation or improvement of any of the property or financial resources of either or both persons;
  - (d) any contributions (including any in the capacity of homemaker or parent) by either the applicant or the deceased to the welfare of the other, or of any child of either person;
  - (e) the income, property and financial resources of the applicant and the deceased;
  - (f) the physical and mental capacity of the applicant, and the deceased (during his or her life), for appropriate gainful employment;
  - (g) the financial needs and obligations of the applicant and the deceased (during the life of the deceased);
  - (h) the responsibilities of either the applicant or the deceased (during his or her life) to support any other person;
  - (i) the terms of any order made under the *Domestic Relationships Act 1994*, section 15 with respect to the property of the applicant or the deceased;
  - (j) any payments made to either the applicant or the deceased by the other, under an order of the court or otherwise, in respect of the maintenance of the other person or any child of the other person;
  - (k) any other matter the court considers relevant.
- (4) The Supreme Court may regard an application for provision out of the estate of a deceased person by a single person as an application made on behalf of all the persons entitled to make applications for provision out of the estate of the deceased person.

**9 Time for making application under s 8 (1)**

- (1) Subject to subsection (2), an application for an order under section 8 shall be made within a period of 12 months after the date when administration in respect of the estate of the deceased person has been granted.
- (2) The Supreme Court may, after hearing such of the persons affected as the court thinks necessary, extend the time within which an application may be made under section 8.
- (3) An extension of time under this section may be granted—
  - (a) on any conditions that the Supreme Court thinks fit; and
  - (b) whether or not the time for making an application has ended.
- (4) An application for the extension, under this section, of the time within which an application for provision out of the estate of the deceased person may be made under section 8 shall not be made after the estate of a deceased person has been lawfully and fully distributed.
- (5) An application for provision out of the estate of a deceased person shall, for this section, be deemed to have been made on the day when the notice of motion or other document instituting the application is filed.

**9A Variation, suspension and discharge of orders**

- (1) In this section:  
*previous order* means an order made under this Act that has not been discharged.
- (2) Subject to this Act, on application made by or on behalf of the administrator of the estate of a deceased person or a person beneficially entitled to, or having an interest in, a part of the estate of a deceased person, the Supreme Court may, in its discretion and having regard to all the circumstances of the case, by order—

- (a) vary a previous order relating to that estate by reducing the amount of the provision made by that previous order; or
  - (b) suspend a previous order relating to that estate for a specified period; or
  - (c) discharge a previous order relating to that estate.
- (3) Subject to this Act, if by a previous order the Supreme Court has directed that provision by way of periodical payments or the benefit of the investment of a lump sum be made for a person out of the estate of a deceased person, on application made by or on behalf of the person, if the court is satisfied that the provision is not adequate for the proper maintenance, education or advancement in life of the person, the court may, in its discretion and having regard to all the circumstances of the case, by order, vary the previous order by increasing the amount of the provision.
- (4) The applicant for an order under subsection (2) shall cause notice of the application to be served on the person in whose favour the previous order was made.
- (5) If the Supreme Court makes an order under subsection (2), the court may make any further orders that it thinks fit for the purpose of giving effect to the order under subsection (2) and any other orders that it considers just.

## **10 Service of application for order under s 8 or s 9A**

- (1) If an application has been made to the Supreme Court for an order under section 8 or 9A for or in relation to provision out of the estate of a deceased person, the applicant shall cause notice of the application to be served on each person who is an administrator of the estate of the deceased person.
- (2) The Supreme Court may—

- (a) on its own initiative and either before or during the hearing of an application for an order under section 8 or 9A for or in relation to provision out of the estate of a deceased person; or
- (b) on an application made by the applicant for such an order or by the administrator of the estate of the deceased person;

order that notice of the application be served on the persons that the court thinks fit.

## **11 Form of order and burden of provision**

- (1) An order under section 8 or 9A shall specify the amount and nature of the provision (if any) to be made and may specify conditions, restrictions and limitations subject to which the provision is to be made that the Supreme Court thinks fit to impose.
- (2) Unless the Supreme Court otherwise orders, the burden of the provision ordered by the court to be made for the benefit of a person shall, subject to subsection (3), be borne between the persons beneficially entitled to the estate of the deceased person (other than the person or persons in whose favour an order or orders under this Act is or are made), in proportion to the values of their respective interests in the estate.
- (3) If persons are successively entitled to estates or interests in any property that is settled by the will of the deceased person, those estates and interests shall not, unless the Supreme Court otherwise orders, be valued separately but the proportion of the provision required by subsection (2) to be borne by those persons out of those estates and interests shall be raised or charged against the corpus of that property.

## **12 Class fund**

- (1) Without limiting the powers of the Supreme Court under this Act, the court may order that an amount specified in the order be set aside out of the estate of the deceased person and held on trust as a

class fund for the benefit of 2 or more persons specified in the order in whose favour orders for provision out of the estate of the deceased person have been made.

- (2) If an amount is ordered to be held in trust as a class fund, the trustee of the fund shall invest so much of the amount as is not applied in accordance with this subsection and may, subject to any directions or conditions that the Supreme Court gives or imposes, but otherwise as the trustee thinks fit, apply the whole or any part of the income and capital of the fund for or towards the maintenance, education or advancement in life of the persons for whose benefit the class fund is held, or any 1 or more of them to the exclusion of the other or others of them in the shares and in the way that the trustee, from time to time, determines.
- (3) If 1 or more of the persons for whose benefit money is held in trust as a class fund dies, a reference in subsection (2) to the persons for whose benefit money is held in trust as a class fund is, after the death of that person, a reference to the survivor or survivors of those persons.
- (4) If an amount is set aside as a class fund, the administrator of the estate of the deceased person shall, unless the Supreme Court otherwise orders, be the trustee of the class fund.

### **13 Property subject to power of appointment**

- (1) If—
  - (a) application is made under section 8 or 9A for an order that provision be made out of the estate of a deceased person; and
  - (b) the deceased person has, by will, exercised a general or a special power of appointment in respect of property, being a power under which the deceased person was, immediately before death, entitled to appoint the property to himself or herself; and
  - (c) the Supreme Court is satisfied that—

- (i) adequate provision for the person who has made the application cannot justly be made out of other property forming part of the estate of the deceased person; or
- (ii) because of the existence of special circumstances, an order should be made that provision be made out of, or charged on, the property in respect of which the deceased person has exercised the general or special power of appointment;

the court may order that provision be made out of, or charged on, the property in respect of which the deceased person has exercised the general or special power of appointment.

(2) If—

- (a) a testator has power to appoint, by will, any real property in the way that he or she thinks fit; and
- (b) by will, the testator has made a general devise of his or her real property or of his or her real property at a particular place, in the occupation of a particular person or otherwise described in a general way without expressly exercising the power of appointment; and
- (c) under the *Wills Act 1968*, section 26 (2), that general devise is to be construed as including the real property over which the deceased person had that power of appointment;

the other property forming part of the estate of the deceased person referred to in subsection (1) (c) (i) shall be deemed to include the real property over which the deceased person had that power of appointment.

(3) If—

- (a) a testator has power to appoint, by will, any personal property in the way that he or she thinks fit;

- (b) by will, the testator has made a general bequest of personal property or of any class of personal property described in a general way without expressly exercising the power of appointment; and
- (c) under the *Wills Act 1968*, subsection 26 (3) that general bequest is to be construed as including the personal property over which the deceased person had that power of appointment;

the other property forming part of the estate of the deceased person referred to in subsection (1) (c) (i) shall be deemed to include the personal property over which the deceased person had that power of appointment.

#### **14 Presumption of death**

If the Supreme Court makes an order under section 8 or 9A that provision be made out of the estate of a person of which the court has granted administration on being satisfied by evidence supporting the presumption that the person may be presumed to be dead, the court may direct that the provision shall not be made unless the person in whose favour the order is made gives an undertaking or security that he or she will, if the grant of administration is revoked on the ground that the person was living at the time of the grant—

- (a) if he or she has received property other than money under the order—restore the property or, at his or her option, pay an amount equal to the value of the property at the time he or she receives the property to the person whose death was presumed or, if that person has subsequently died, to the administrator of the estate of that person; or
- (b) if he or she has received money under the order—pay an amount equal to the amount of the money received by him or her under the order to the person whose death was presumed or, if that person has subsequently died, to the administrator of the estate of that person.



**15 Exoneration of part of estate from provision**

- (1) The Supreme Court may, when making, or at any time after having made, an order under section 8 or 9A, order a person who is entitled to a share in the estate of the deceased person as a legatee, devisee or beneficiary to pay a lump sum or periodical payments, or a lump sum and periodical payments, to represent, or in commutation of, a proportion of the provision ordered to be made for the person in whose favour the order is made that falls on the legatee, devisee or beneficiary, and may exonerate the property or a specified part of the property to which the legatee, devisee or beneficiary is entitled from further liability in respect of that provision.
- (2) If the Supreme Court makes an order under subsection (1), the court may direct—
  - (a) how a lump sum or periodical payment is to be secured; and
  - (b) the person to whom such a lump sum or periodical payment is to be made; and
  - (c) how (if at all) the lump sum or periodical payment is to be invested for the benefit of the person in whose favour the order under section 8 or 9A has been made.

**16 Operation of order for provision out of estate of deceased person**

- (1) Subject to subsection (2), an order under section 8 operates as if it were a codicil to the will of the deceased person executed by the deceased person immediately before death.
- (2) An order under section 8 in relation to property of a deceased person who died intestate operates as a modification of the *Administration and Probate Act 1929*, part 3A in its application to that property.

**18 Certified copy of order**

The Supreme Court shall, if it makes an order under section 8, 9A or 15 in relation to the estate of a deceased person, direct that a certified copy of the order be endorsed on, or annexed to, the probate of the will or letters of administration with the will annexed or letters of administration of the estate of the deceased person, as the case may be, and, for that purpose, may require the production of the probate or letters of administration.

**19 Permission of court necessary to validity of mortgage, charge or assignment of an interest**

A mortgage, charge or assignment of any kind whatsoever, of or over the provision made, or to be made, by an order under this Act, is of no force or effect unless that mortgage, charge or assignment is made with the permission of the Supreme Court.

**20 Property available for provision**

- (1) Subject to subsection (2), notwithstanding any distribution of property forming part of the estate of a deceased person made by the administrator of the estate, the Supreme Court may, in an order under section 8 or 9A in relation to that estate, direct that provision be made for a person out of that property.
- (2) In an order under section 8 or 9A, the Supreme Court shall not direct that provision be made for a person out of any property that has been the subject of a distribution referred to in subsection (1) if—
  - (a) the distribution was properly made for the purpose of providing for the proper maintenance, education or advancement in life of a person who was totally or partially dependent on the deceased person immediately before the death of the deceased person; or
  - (b) the distribution was made—

- (i) more than 12 months after the date when administration of the estate was granted; and
- (ii) before the administrator had notice of the application for the order or, if an application was made under section 9 for an extension of time within which an application for an order under section 8 may be made, the application under section 9;

and the property that was so distributed has vested in possession of any person.

## **21 Protection of administrator**

An action does not lie against the administrator of the estate of a deceased person because of his or her having distributed the whole or any part of the estate of the deceased person if the distribution was a distribution referred to in section 20 (2) or if—

- (a) the distribution was made before the administrator had notice of an application for an order under this Act or notice of an application to extend the time within which an application for an order under this Act may be made under this Act; and
- (b) before making the distribution, the administrator had given notices in accordance with the *Administration and Probate Act 1929*, section 64 and the time specified in the notice or in the last of the notices for sending in claims had expired.

## **22 Relevance of testator's reasons**

- (1) The Supreme Court shall, in determining an application for an order under section 8 or 9A, have regard to the testator's reasons, so far as they are ascertainable, for making the dispositions made by will or for not making provision or further provision, as the case may be, for a person who is entitled to make an application under this Act.
- (2) The Supreme Court may receive in evidence a statement signed by the testator and purporting to bear the date when it was signed and

to set out reasons for making or not making provision or further provision by the will of the testator for a person as evidence of those reasons.

- (3) If a statement of a kind referred to in subsection (2) is received in evidence, the Supreme Court shall, in determining what weight (if any) ought to be attached to the statement, have regard to all the circumstances from which any inference may reasonably be drawn about the accuracy of the matters referred to in the statement.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- person
- Supreme Court.

***administration*** means probate, granted in the ACT, of the will of a deceased person or letters of administration, granted in the ACT, of the estate of a deceased person, whether with or without a will annexed, and whether granted for general, special or limited purposes, and includes an order to collect and administer the estate of a deceased person granted to the public trustee.

***administrator***, in relation to the estate of a deceased person, means a person to whom administration has been granted in respect of the deceased person.

***deceased person*** includes a person in respect of whose estate there has been made a grant of administration expressed to be made on presumption of the death of the person.

***intestate***—see the *Administration and Probate Act 1929*, section 44 (1).

***will*** includes a codicil.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 **Legislation history**

This Act was originally a Commonwealth ordinance—the *Family Provision Ordinance 1969* No 41 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

#### **Legislation before becoming Territory enactment**

##### **Family Provision Act 1969 No 15**

notified 14 August 1969

commenced 1 September 1969 (Cwlth Gaz 1969)

as amended by

##### **Ordinances Revision Ordinance 1978 No 46 sch 2**

notified 28 December 1978

commenced 28 December 1978

##### **Family Provision (Amendment) Ordinance 1981 No 38**

notified 30 October 1981

commenced 30 October 1981

##### **Public Trustee (Miscellaneous Amendments) Ordinance 1985 No 9 sch 2**

notified 8 March 1985

commenced 28 October 1985 (Cwlth Gaz 1985 No G42)

##### **Family Provision (Amendment) Ordinance 1989 No 18**

notified 22 March 1989

commenced 24 March 1989 (Cwlth Gaz 1989 No S101)

## Endnotes

4 Amendment history

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### Legislation after becoming Territory enactment

#### Family Provision (Amendment) Act 1996 No 16

notified 1 May 1996 (Gaz 1996 No S71)

commenced 1 May 1996 (s 2)

#### Legislation (Consequential Amendments) Act 2001 No 44 pt 141

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 141 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 1 pt 1.7

notified LR 18 February 2004

s 1, s 2 commenced 18 February 2004 (LA s 75 (1))

sch 1 pt 1.7 commenced 22 March 2004 (s 2 and CN2004-4)

#### Civil Unions Act 2006 A2006-22 sch 1 pt 1.14

notified LR 19 May 2006

s 1, s 2 commenced 19 May 2006 (LA s 75 (1))

sch 1 pt 1.14 never commenced

*Note* Act repealed by disallowance 14 June 2006 (see Cwltz Gaz 2006 No S93)

#### Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.43

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.43 commenced 12 April 2007 (s 2 (1))

#### Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.12

notified LR 15 May 2008

s 1, s 2 commenced 15 May 2008 (LA s 75 (1))

sch 1 pt 1.12 commenced 19 May 2008 (s 2 and CN2008-8)

## 4 Amendment history

### Name of Act

s 1 sub A2007-3 amdt 3.234

### Dictionary

s 2 om 2001 No 44 amdt 1.1619  
ins A2007-3 amdt 3.236



**Notes**

s 3 om 1978 No 46 sch 2  
ins A2007-3 amdt 3.236

**Sealing of probate etc granted outside ACT**

s 4 defs reloc to dict A2007-3 amdt 3.235  
sub A2007-3 amdt 3.236  
def **court** ins 1996 No 16 sch  
om R3 LA  
def **domestic partner** ins 1996 No 16 s 5  
om A2004-2 amdt 1.24  
def **domestic relationship** ins 1996 No 16 s 5  
om A2004-2 amdt 1.24  
def **eligible partner** ins 1996 No 16 s 5  
om A2004-2 amdt 1.24  
def **legal spouse** ins 1996 No 16 s 5  
om A2004-2 amdt 1.24  
def **spouse** ins 1996 No 16 s 5  
om A2004-2 amdt 1.24  
def **the court** om 1996 No 16 sch

**Application of Act**

s 5 am 1981 No 38 sch; 1996 No 16 sch  
om A2007-3 amdt 3.237

**Transitional provisions**

s 6 am 1981 No 38 sch; 1996 No 16 sch  
om A2007-3 amdt 3.237

**Eligibility**

s 7 am 1981 No 38 s 4, sch; 1989 No 18 s 4; 1996 No 16 s 6;  
A2004-2 amdt 1.25-1.27; A2006-22 amdt 1.60-1.63  
(A2006-22 rep before commenced by disallowance (see  
Cwlth Gaz 2006 No S93)); A2007-3 amdt 3.238; A2008-14  
amdt 1.35

**Family provision orders**

s 8 am 1981 No 38 s 5; 1996 No 16 s 7; A2006-22 amdt 1.64  
(A2006-22 rep before commenced by disallowance (see  
Cwlth Gaz 2006 No S93))

**Time for making application under s 8 (1)**

s 9 am 1981 No 38 s 6; 1996 No 16 sch

**Variation, suspension and discharge of orders**

s 9A ins 1981 No 38 s 7  
am 1996 No 16 sch; A2007-3 amdt 3.239

**Service of application for order under s 8 or s 9A**

s 10 am 1981 No 38 s 8

## Endnotes

### 4 Amendment history

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#### **Form of order and burden of provision**

s 11 am 1981 No 38 s 9

#### **Class fund**

s 12 am 1981 No 38 s 10; 1996 No 16 sch

#### **Property subject to power of appointment**

s 13 am 1981 No 38 s 11; 1996 No 16 sch

#### **Presumption of death**

s 14 am 1981 No 38 s 12; 1996 No 16 sch

#### **Exoneration of part of estate from provision**

s 15 am 1981 No 38 s 13

#### **Operation of order for provision out of estate of deceased person**

s 16 am 1981 No 38 s 14, sch; 1996 No 16 sch

#### **Discharge, variation etc of order**

s 17 om 1981 No 38 s 15

#### **Certified copy of order**

s 18 am 1981 No 38 s 16

#### **Property available for provision**

s 20 sub 1981 No 38 s 17

#### **Protection of administrator**

s 21 am 1981 No 38 s 18, sch; 1996 No 16 sch

#### **Relevance of testator's reasons**

s 22 am 1981 No 38 s 19; 1996 No 16 sch

#### **Dictionary**

dict ins A2007-3 amdt 3.240  
def **administration** am 1985 No 9 sch 2; 1996 No 16 sch  
reloc from s 4 A2007-3 amdt 3.235  
def **administrator** reloc from s 4 A2007-3 amdt 3.235  
def **deceased person** reloc from s 4 A2007-3 amdt 3.235  
def **intestate** am 1981 No 38 s 3, sch  
reloc from s 4 A2007-3 amdt 3.235  
def **will** reloc from s 4 A2007-3 amdt 3.235

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1989 No 18	31 July 1991
2	Act 1996 No 16	31 January 1998
3	A2001-44	4 April 2002
4	A2004-2	22 March 2004
5	A2007-3	12 April 2007

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