

AUSTRALIAN CAPITAL TERRITORY

Administration and Probate (Amendment) Ordinance (No. 2) 1989

No. 19 of 1989

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 13 March 1989.

BILL HAYDEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts
and Territories

An Ordinance to amend the *Administration and Probate Ordinance 1929*

Short title

1. This Ordinance may be cited as the *Administration and Probate (Amendment) Ordinance (No. 2) 1989*.¹

(Ord. 74/88)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Commencement

2. This Ordinance commences on such date as is fixed by the Minister by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, “Principal Ordinance” means the *Administration and Probate Ordinance 1929*.²

Substitution

4. Section 49E of the Principal Ordinance is repealed and the following section substituted:

Presumptions of parentage

“49E. For the purposes of the application of this Division and the Sixth Schedule in relation to an intestate, a presumption of parentage arising under Part III of the *Birth (Equality of Status) Ordinance 1988* in relation to a person shall be taken to operate only if the presumption arose before the intestate died.”.

Filing and passing accounts

5. Section 58 of the Principal Ordinance is amended by omitting from subsection (1) “A person to whom representation is granted” and substituting “If a person to whom representation is granted is required to do so by the Rules or by an order of the Court, the person”.

Distribution of assets

6. Section 64 of the Principal Ordinance is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) An executor or administrator shall not distribute the assets of the testator or intestate, or any part of them, unless he or she has—

(a) applied under the *Registration of Births, Deaths and Marriages Ordinance 1963* for a search of the Register of Births and the Register of Parentage Information for information about the parents or any children—

(i) of the deceased; or

(ii) of any other person known by the executor or administrator to be relevant to the distribution of the assets; and

- (b) taken into account any relevant information, documents or certified copies of, or extracts from, documents obtained from the Registrar of Births, Deaths and Marriages as a result of the search.”;
- (b) by omitting from subsection (2) “The executor or administrator” and substituting “Where an executor or administrator has complied with subsection (1A), he or she”; and
- (c) by inserting in subsection (2) “or she” after “claim he”.

Saving

7. Notwithstanding the amendments effected by this Ordinance, the Principal Ordinance as in force immediately before the commencement of this Ordinance applies in relation to the estates of people who died before that commencement.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 22 March 1989.
2. No. 18, 1929 as amended to date. For previous amendments *see* Note 2 to No. 34, 1988 and *see also* No. 34, 1988.