

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Forfeiture Bill 1991

**A BILL
FOR**

**An Act to provide for the relief of persons guilty of
unlawful killing from the forfeiture of inheritance
and other rights and for related purposes**

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

Short title

1. This Act may be cited as the *Forfeiture Act 1991*.

5 Interpretation

2. (1) In this Act, unless the contrary intention appears—

“forfeiture rule” means the rule of public policy that in certain
circumstances precludes a person who has unlawfully killed
another person from acquiring a benefit in consequence of the
killing;

"property" includes any chose in action or incorporeal moveable property;

"will" includes a codicil.

5 (2) A reference in this Act to unlawful killing shall be read as including a reference to aiding, abetting, counselling or procuring an unlawful killing.

(3) A reference in this Act to a person who has unlawfully killed another shall be read as including a person who has unlawfully aided, abetted, counselled or procured the death of another person.

10 **Power of Supreme Court to modify forfeiture rule**

3. (1) Where a person (in this section called the "offender") has unlawfully killed another and is thereby precluded by the forfeiture rule from obtaining an interest in any property, application may be made to the Supreme Court for an order modifying the effect of the rule.

15 (2) On an application under subsection (1), the Supreme Court may make an order modifying the effect of the forfeiture rule where it is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the court to be material, the justice of the case requires the effect of the rule to be modified.

20 (3) An order under subsection (2) may be made in respect of any interest in property that the offender would have acquired but for the operation of the forfeiture rule and may modify the effect of the rule in either or both of the following ways:

25 (a) in respect of any 1 interest in property affected by the rule—by excluding the application of the rule in respect of all the property or any part of it;

(b) where more than 1 interest in property is affected by the rule—by excluding the application of the rule in respect of all the interests or any of them.

30 (4) On the making of an order under subsection (2), the forfeiture rule shall have effect for all purposes (including purposes relating to anything done before the order was made) subject to modifications made by the order.

35 (5) The Supreme Court shall not make an order under subsection (2) in relation to an offence in which unlawful killing is an element unless application is made for the order within 3 months after the day on which the offender is convicted of the offence.

Exclusion of murderers

4. Nothing in this Act or in any order made under subsection 3 (2) shall affect the application of the forfeiture rule in the case of a person who stands convicted of murder.

5 Application of orders

5. (1) Subject to subsection (2), an order may be made under subsection 3 (2) in respect of a person who has unlawfully killed another whether the unlawful killing occurred before or after the commencement of this Act.

10 (2) An order shall not be made under subsection 3 (2) modifying the effect of the forfeiture rule in respect of any interest in property that, in consequence of the rule, has been acquired before the commencement of this Act by a person other than the offender or a person claiming through the offender.