

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Guardianship and Management of Property
(Consequential Provisions) Bill 1991**

**A BILL
FOR**

**An Act to amend certain Acts in consequence of the
enactment of the *Guardianship and Management of
Property Act 1991*, and for related purposes**

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

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Guardianship and Management of Property (Consequential Provisions) Act 1991*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

81074 1991/1883 (T74/91)

(2) The remaining provisions commence on the day on which the *Guardianship and Management of Property Act 1991*, other than sections 1 and 2, commences.

PART II—AMENDMENT OF LUNACY ACT

5 Interpretation

3. In this Part—

“commencement date” means the date on which the *Guardianship and Management of Property Act 1991*, other than sections 1 and 2, commences;

10 “former Lunacy Act” means the Lunacy Act as in force at any time before the commencement date;

“Lunacy Act” means the Lunacy Act of 1898 of the State of New South Wales in its application in the Territory.

Repeal

15 4. Parts VII, VIII and X of the Lunacy Act are repealed.

Transitional arrangements

5. (1) Where, immediately before the commencement date, a person was, under the former Lunacy Act—

(a) a committee of another person; or

20 (b) a guardian of another person;

the first-mentioned person is, by force of this section, a guardian for the other person as if he or she had been so appointed under the *Guardianship and Management of Property Act 1991* on the day when he or she became the committee or guardian, with the powers as guardian under that Act that he or she had under the former Lunacy Act.

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(2) Where, immediately before the commencement date, a person was, under the former Lunacy Act—

(a) a committee of the estate of another person;

30 (b) a person appointed to undertake the care and management of another person’s property;

(c) a person appointed as a guardian or receiver of another person’s estate; or

(d) a person appointed to receive the property, or the proceeds of the property, of another person;

5 the first-mentioned person is, by force of this section, the manager of the relevant property of the other person as if he or she had been so appointed under the *Guardianship and Management of Property Act 1991* on the day when he or she became the committee or was so appointed, with the powers as manager under that Act that he or she had under the former Lunacy Act.

PART III—AMENDMENT OF POWERS OF ATTORNEY ACT

Principal Act

10 6. In this Part, "Principal Act" means the *Powers of Attorney Act 1956*.

Interpretation

7. Section 2 of the Principal Act is amended by inserting in subsection (1) the following definition:

15 " 'Tribunal' means the Guardianship and Management of Property Tribunal;".

Insertion

8. After section 17 of the Principal Act the following section is inserted:

Relationship between enduring powers of attorney and guardianship and management orders

20 "18. (1) This section has effect notwithstanding any other provision of this Act.

25 "(2) If the Tribunal appoints a guardian for a person or a manager for a person's property, it may make such order as it thinks fit affecting the continued operation of an enduring power of attorney executed by the person and such an order has effect according to its tenor.

"(3) A person for whom a guardian is appointed, or for whose property a manager is appointed, is not capable of executing an enduring power of attorney unless the Tribunal approves the provisions of the power."

PART IV—AMENDMENT OF TRANSPLANTATION AND ANATOMY ACT

Principal Act

30 9. In this Part, "Principal Act" means the *Transplantation and Anatomy Act 1978*.

Insertion

10. After section 16 of the Principal Act the following section is inserted:

Effect of consent by Guardianship and Management Tribunal

- 5 “16A. Subject to section 19, an order under section 70 of the
Guardianship and Management of Property Act 1991 consenting to the
removal of specified non-regenerative tissue from a person for
transplantation is sufficient authority for a medical practitioner to remove, at
any time after 24 hours after the time the order was made, the non-
10 regenerative tissue specified in the order for the purpose of transplantation
of the tissue to the body of another living person.”

When written consent is not sufficient authority

11. Section 19 of the Principal Act is amended by adding at the end the following subsection:

- 15 “(2) A document that purports to be an order of the kind mentioned in
section 16A is not sufficient authority for a medical practitioner to remove
tissue if the medical practitioner has been informed that the order has been
revoked.”