

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

FAMILY PROVISION (AMENDMENT) ORDINANCE 1989

No. 18 of 1989

The Family Provision Ordinance 1969 (the Principal Ordinance) allows certain persons (including a child of a deceased person) to make application for provision out of the estate of a deceased person.

Subsections 7(5) and (6) of the Principal Ordinance deem an illegitimate child of the deceased person to be a legitimate child of that person under certain circumstances for the purpose of an application under subsection 7(1) of the Principal Ordinance.

The provisions of the Birth (Equality of Status) Ordinance 1988 supersede subsections 7(5) and (6) of the Principal Ordinance.

The Family Provision (Amendment) Ordinance 1989 therefore amends the Principal Ordinance by omitting subsections 7(5) and (6), but preserves the application of the Principal Ordinance as in force before the amendment to the estates of persons who died before the commencement of the Family Provision (Amendment) Ordinance 1989.

Details of the Ordinance are as follows.

Section 1 provides that the Ordinance may be cited as the Family Provision (Amendment) Ordinance 1989.

Section 2 provides that the Ordinance shall come into operation on a date fixed by the Minister and notified in the Gazette.

Section 3 provides that the Principal Ordinance means the Family Provision Ordinance 1969.

Section 4 amends section 7 of the Principal Ordinance by omitting subsections (5) and (6). These provisions are no longer necessary because they are superseded by the Birth (Equality of Status) Ordinance 1988.

Section 5 provides that the Principal Ordinance as in force immediately before the commencement of the Family Provision (Amendment) Ordinance 1989 applies in relation to applications under subsection 7(1) of the Principal Ordinance in respect of the estates of people who died before that commencement. The amendments to the Principal Ordinance therefore will only apply to applications made after the Ordinance comes into force.

Authorised by the Minister
of State for the Arts and
Territories