

EXPLANATORY STATEMENT

Australian Capital Territory

FAMILY PROVISION (AMENDMENT) ORDINANCE 1981

No.38 of 1981

The purpose of this Ordinance is to amend the Family Provision Ordinance 1969 (which deals with the need for testators to make adequate provision for their families) so as to permit the Supreme Court to increase a provision already made by way of periodical payments if the Court is satisfied that the provision made is not adequate for the proper maintenance, education or advancement in life of the person for whose benefit it was made. The amending Ordinance also contains a number of provisions that are of a consequential or formal revision nature.

The principal provisions of the amending Ordinance are as follows:-

- . Section 7 which inserts a new section 9A to replace existing section 17 of the Principal Ordinance, dealing with variation of previous orders of the Court and section 15 which repeals existing section 17. The new section 9A is in substance the same as the existing section 17 with the addition of a new sub-section 9A(3) permitting the Supreme Court to increase a previous order made by it for periodical payments in the circumstances described above. The variations at present permitted by section 17 do not include the granting of increased provision; and

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- . Section 17 which remakes existing section 20, relating to property available for distribution, so as to ensure, as far as possible, that property is available from which any increase ordered by the Court may be paid.

The remaining provisions of the amending Ordinance deal with consequential and revision matters.

Sections 8, 9(a), 12, 13(a) and (c), 16 and 19(a) insert references to the new section 9A in the relevant sections of the Principal Ordinance consequent upon the new provisions described above.

Sections 1 to 6, 9(b) to (d), 10, 11(b) to (e), 13(b), 14, 18, 19(b), 20 and the Schedule are formal provisions describing the title of the Ordinance and the definition of the "Principal Ordinance", and making a number of changes to correct minor formal errors or to bring the Principal Ordinance into line with current drafting practice.

Authorized by the Attorney-General