

AUSTRALIAN CAPITAL TERRITORY

WILLS ORDINANCE 1968

EXPLANATORY MEMORANDUM

No. 11 of 1968

The present law of the Australian Capital Territory relating to wills is contained in Part I of the Wills, Probate and Administration Act 1898 of New South Wales, which still applies as a law of the Territory. For the most part, the proposed Wills Ordinance 1968 re-enacts the substance of that law, which is itself similar to legislation on this subject in England and the other States. There are, however, three matters in which the law is changed.

2. The age at which a person may make a valid will is to be reduced from twenty-one to eighteen (section 8).
3. Whereas previously any will was revoked by the subsequent marriage of the person making it, under the new Ordinance a will is not revoked by marriage if it is expressed to be made in contemplation of that marriage (section 20).
4. Certain 'privileged persons' have always been entitled to make a testamentary disposition without complying with the formalities required of other persons. Under section 16 of the new Ordinance, the privilege is confined to members of the Defence Force of Australia and certain other classes of persons who are commonly treated as if they were members of the Defence Force e.g. Salvation Army officers and the like. In addition to being a member of the Defence Force, a person must, to qualify for the privilege, be in actual military service or a prisoner of war. Members of the Defence Forces of other Commonwealth countries and mariners cease to be within the privileged class.
5. The New South Wales Act provides that privileged persons might dispose of their estate as they might have done before the coming into operation of the Act. The new Ordinance spells out the method by which a testamentary disposition by a person in the privileged class may be effect. No change of substance is involved.