

CONCURRENCE COPY

WILLS, PROBATE AND ADMINISTRATION (FAMILY PROVISION) AMENDMENT BILL, 1982

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Paliament)

This Bill is cognate with the Family Provision Bill, 1982.

Under the Family Provision Bill, 1982, provision may be made for certain persons out of certain property which is not in the estate of a deceased person. The object of this Bill is to allow administration to be granted in respect of a deceased person for the purpose of permitting an application to be made under the Family Provision Bill, 1982, whether or not there is property in the estate of the deceased person.

GOVERNMENT OF CANADA

MINISTER OF INDUSTRY

INDUSTRIAL DEVELOPMENT BANK

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**WILLS, PROBATE AND ADMINISTRATION (FAMILY
PROVISION) AMENDMENT BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend the Wills, Probate and Administration Act, 1898, with respect to the jurisdiction of the Supreme Court of New South Wales to grant probate or administration and consequentially upon the enactment of the Family Provision Act, 1982.

[MR WALKER—23 *November*, 1982.]

Wills, Probate and Administration (Family Provision) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Wills, Probate and Administration (Family Provision) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Family Provision Act, 1982.

Amendment of Act No. 13, 1898.

3. The Wills, Probate and Administration Act, 1898, is amended in the 15 manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE WILLS, PROBATE AND ADMINISTRATION ACT, 1898.

(1) Section 40A (2)—

20 Omit "and Part XV of the Conveyancing Act, 1919," insert instead "Part XV of the Conveyancing Act, 1919, and the Family Provision Act, 1982,".

Wills, Probate and Administration (Family Provision) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE WILLS, PROBATE AND ADMINISTRATION ACT, 1898—
continued.

(2) Section 41A—

5 After section 41, insert:—

Probate or administration for purpose of Family Provision Act, 1982.

10 41A. (1) The Court shall have jurisdiction to grant administration in respect of a deceased person in order to permit an application to be made under the Family Provision Act, 1982, where it is satisfied that it is proper to make the grant, whether or not the deceased person left property in New South Wales.

(2) A grant of administration made as referred to in subsection (1) shall be for the purposes only of making an application under the Family Provision Act, 1982.

15 (3) The Court may grant administration in respect of a deceased person as referred to in subsection (1) to any person who it is satisfied is an eligible person within the meaning of the Family Provision Act, 1982, or to any person who it is satisfied intends to make application under that Act on behalf of such an eligible person.

20 (4) The granting of administration or probate in respect of a deceased person under this or any other provision of this Act shall not prevent the Court from making a grant of administration as referred to in subsection (1) or, unless expressly provided by the Court, affect any such grant previously made.

25 (5) Except in so far as the context or subject-matter otherwise indicates or requires—

30 (a) a reference in this Act to a grant of administration of the estate of a deceased person shall include a reference to a grant of administration made as referred to in subsection (1); and

Wills, Probate and Administration (Family Provision) Amendment.

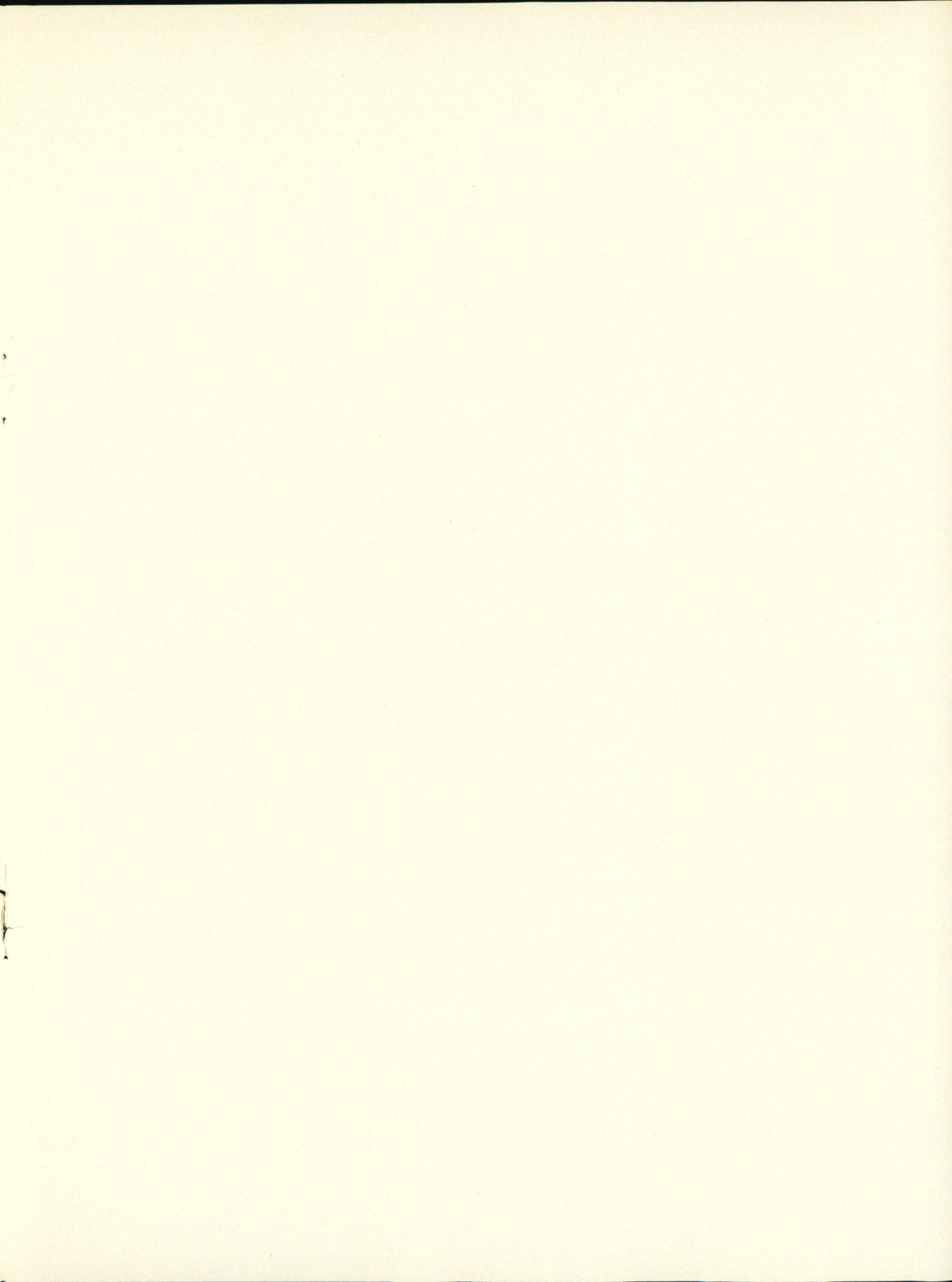
SCHEDULE 1—*continued.*

AMENDMENTS TO THE WILLS, PROBATE AND ADMINISTRATION ACT, 1898—
continued.

- 5 (b) a reference in this Act to an administrator of the estate of a deceased person shall include a reference to a person to whom administration has been granted as referred to in subsection (1).

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982



**WILLS, PROBATE AND ADMINISTRATION (FAMILY
PROVISION) AMENDMENT ACT, 1982, No. 162**

New South Wales



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ELIZABETHÆ II REGINÆ

Act No. 162, 1982.

An Act to amend the Wills, Probate and Administration Act, 1898, with respect to the jurisdiction of the Supreme Court of New South Wales to grant probate or administration and consequentially upon the enactment of the Family Provision Act, 1982. [Assented to, 24th December, 1982.]

Wills, Probate and Administration (Family Provision) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Wills, Probate and Administration (Family Provision) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Family Provision Act, 1982.

Amendment of Act No. 13, 1898.

3. The Wills, Probate and Administration Act, 1898, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE WILLS, PROBATE AND ADMINISTRATION ACT, 1898.

(1) Section 40A (2)—

Omit "and Part XV of the Conveyancing Act, 1919," insert instead "Part XV of the Conveyancing Act, 1919, and the Family Provision Act, 1982,".

Wills, Probate and Administration (Family Provision) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WILLS, PROBATE AND ADMINISTRATION ACT, 1898—
continued.

(2) Section 41A—

After section 41, insert:—

Probate or administration for purpose of Family Provision Act, 1982.

41A. (1) The Court shall have jurisdiction to grant administration in respect of a deceased person in order to permit an application to be made under the Family Provision Act, 1982, where it is satisfied that it is proper to make the grant, whether or not the deceased person left property in New South Wales.

(2) A grant of administration made as referred to in subsection (1) shall be for the purposes only of making an application under the Family Provision Act, 1982.

(3) The Court may grant administration in respect of a deceased person as referred to in subsection (1) to any person who it is satisfied is an eligible person within the meaning of the Family Provision Act, 1982, or to any person who it is satisfied intends to make application under that Act on behalf of such an eligible person.

(4) The granting of administration or probate in respect of a deceased person under this or any other provision of this Act shall not prevent the Court from making a grant of administration as referred to in subsection (1) or, unless expressly provided by the Court, affect any such grant previously made.

(5) Except in so far as the context or subject-matter otherwise indicates or requires—

- (a) a reference in this Act to a grant of administration of the estate of a deceased person shall include a reference to a grant of administration made as referred to in subsection (1); and

Wills, Probate and Administration (Family Provision) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE WILLS, PROBATE AND ADMINISTRATION ACT, 1898—
continued.

- (b) a reference in this Act to an administrator of the estate of a deceased person shall include a reference to a person to whom administration has been granted as referred to in subsection (1).

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 24th December, 1982.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983