

MENTAL DEFECTIVES ORDINANCE 1969

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No. 23 of 1969

An Ordinance to amend the *Mental Defectives Ordinance 1940-1968*

[Assented to 30 September, 1969]

BE it ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1.—(1.) This Ordinance may be cited as the *Mental Defectives Ordinance 1969*. Short title and citation

(2.) The *Mental Defectives Ordinance 1940-1968* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance as amended by this Ordinance may be cited as the *Mental Defectives Ordinance 1940-1969*.

2. This Ordinance shall come into operation on the date on which the *Administration and Probate Ordinance 1969* comes into operation.* Commencement

3. Section 4 of the Principal Ordinance is amended— Definitions

(a) by inserting after the definition of “certificate” the following definition:—

“‘Judge’ means a Judge holding office under section seven of the *Northern Territory Supreme Court Act 1961* or of that Act as amended at any time;”;

(b) by omitting the definition of “the Court” and inserting in its stead the following definition:—

“‘the Court’ or ‘the Supreme Court’ means the Supreme Court of the Northern Territory of Australia or a Judge thereof;”;

(c) by omitting the definition of “the Judge”.

4. Section 40 of the Principal Ordinance is repealed and the following section inserted in its stead:—

“40. The provisions of section seven of the *Public Trustee Ordinance 1920-1969* apply to all moneys coming to the hands of the Public Trustee under the provisions of this Ordinance as if those moneys were moneys received by the Public Trustee on account of an estate coming under his control in accordance with this Ordinance.”. Banking and investment of moneys received by Public Trustee

* That date was 8 February, 1971.

5. Section 49 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Public Trustee
may apply to
Court for
directions

“49.—(1.) The Public Trustee, or any other person appointed as the committee of the estate of any person or the Public Trustee being authorized by this Ordinance to administer the estate of any person, may apply to the Court for advice or direction as to a matter connected with the administration of an estate under this Ordinance.

“(2.) The application may be made *ex parte* or upon summons served on any of the parties interested.

“(3.) Upon the hearing of the application, the Court may make any order, whether declaratory or not, that it thinks fit as to the administration of the estate and also as to the costs of the application.

“(4.) Such an order made in the absence of an interested party has the same effect and is of the same force and validity in protecting the applicant as if it were a decree or order made in an action where all parties concerned were represented.

“(5.) This section does not restrict any of the other powers and authorities conferred by this Ordinance.”.

6. Section 55 of the Principal Ordinance is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

Payment of
maintenance,
cost of
administration,
and commission

“(1.) Where the Public Trustee is entitled under section thirty-four of this Ordinance to the possession and management of an estate—

(a) all expenses incurred by him in the maintenance of the person whose estate it is shall be charged against and payable out of the estate; and

(b) the provisions of section six of the *Public Trustee Ordinance* 1920-1969 apply in respect of the estate as if the estate were property received by the Public Trustee on account of an estate coming under his control in accordance with this Ordinance.

“(2.) Where under this Ordinance the committee of an estate is a person other than the Public Trustee—

(a) all expenses incurred by the person in the maintenance of the person whose estate it is shall be charged against and payable out of the estate; and

(b) the Court may allow to the person who is the committee, either periodically or otherwise, such commission or other remuneration out of the estate as the Court deems just and reasonable, provided he has not neglected or failed to perform any duty imposed on him by or under section forty-five of this Ordinance.”.

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7. Section 71 of the Principal Ordinance is repealed. **Repeal of section 71**
8. Section 74 of the Principal Ordinance is amended by omitting the words "(except those mentioned in section seventy-one of this Ordinance)". **Regulations**
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