

Testator's Family Maintenance, Etc., Act. 7 GEO. VI. No. 4, 1942.

Provided that such repeal shall have operation and effect only in respect of those cases where the death of the two or more persons under the circumstances as set forth in the said section twenty-six took place on and after the commencement of this Act.

4. Without prejudice to any other mode of citation, **"The Succession Acts, 1867 to 1895,"* †*"The Succession Act of 1906,"* ‡*"The Succession Act of 1906 Declaratory Act of 1919,"* §*"The Wills (Soldiers, Sailors, and Members of the Air Force) Act of 1940,"* and this Act, may collectively be cited as *"The Succession Acts, 1867 to 1942."*

Saving.
Collective
title of
Succession
Acts.

An Act to Amend "The Testator's Family Maintenance Act of 1914" in certain particulars.

7 GEO. VI.
No. 4.
THE
TESTATOR'S
FAMILY
MAINTENANCE
ACT
AMENDMENT
ACT OF 1943.

[ASSENTED TO 8TH APRIL, 1943.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as *"The Testator's Family Maintenance Act Amendment Act of 1943,"* and shall be read as one with ‖*"The Testator's Family Maintenance Act of 1914,"* herein referred to as the Principal Act.

Short title
and
construction.

(2.) The Principal Act and this Act may collectively be cited as *"The Testator's Family Maintenance Acts, 1914 to 1943."*

Collective
title.

Amendments of the Principal Act.

2. A new subsection (1A) is inserted after subsection one of section three of the Principal Act, as follows:—

Amendment
of s. 3.

"(1A.) (i.) The term "child of the testator" means—

New
subsection
1A.

(a) A legitimate or legitimised child; and/or

Meaning of
"child of the
testator."

* 31 V. No. 24 and amending Acts. See v. 9, pp. 7 et seq.

† 6 E. 7 No. 24. See v. 9, p. 44.

‡ 10 G. 5 No. 6. See v. 9, p. 45.

§ 4 G. 6 No. 4. See 1940 Sess. v., p. 18017.

‖ 5 G. 5 No. 26. See v. 9, p. 136.

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(b) A step-child ; and/or

(c) An adopted child

of the testator and whether under, of, or over the age of twenty-one years at the date of the death of the testator.

The term also includes—

(d) A child (not otherwise included in paragraphs (a), (b), or (c)), being a child of the testator born out of lawful wedlock, and under the age of twenty-one years at the date of death of the testator ; and/or

(e) A child (not otherwise included in paragraphs (a), (b), or (c)), being a child of the testator born out of lawful wedlock and of or over the age of twenty-one years at the date of death of the testator, and being a person who, during the lifetime of the testator, has helped to build up and/or conserve the estate of the testator :

Provided that the Court before making an order in respect of a child born out of lawful wedlock as referred to in paragraphs (d) and (e) aforesaid shall satisfy itself—

(i.) That the evidence submitted to it on behalf of such child is reasonably sufficient to establish that such child is the offspring of the testator concerned ; and

(ii.) That the evidence submitted to it that such child was acknowledged or recognised by the testator concerned during his or her lifetime as being his or her offspring is reasonably sufficient.

(ii.) The term “step-child” means, when the testator is the husband, the child of his wife by a former marriage, and when the testator is the wife, the child of her husband by a former marriage.

(iii.) The term “adopted child” means, when the child is adopted in Queensland, a child adopted according to the provisions of **“The Infant Life Protection Acts, 1905 to 1935,”* or †*“The Adoption of Children Acts, 1935 to 1941,”* by the testator or by the testator with his or

* 5 E. 7 No. 19 and amending Acts. See v. 1, pp. 669 *et seq.*

† 26 G. 5 No. 7 and amending Acts. See v. 1, pp. 719 *et seq.*

1943.

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her spouse jointly, or where the child is adopted elsewhere than in Queensland a child adopted according to the laws for the time being in force at the date of the adoption of the country where the adoption is made by the testator, or by the testator with his or her spouse jointly.”

3. (1.) The provisions of the Principal Act as amended by this Act shall apply and extend in respect of the estate of a testator dying before, on, or after the passing of this Act and where probate of the will of the testator concerned is granted on or after the passing of this Act. Application of Act.

(2.) The provisions of this Act shall be in addition to and without derogation from the powers, authorities, and jurisdiction of the Court under the Principal Act : Act to be in addition to powers of Court.

Provided that any decision of the Court under the Principal Act interpreting the term “child” as including a legitimised child and/or a step-child and/or an adopted child, which may have been given prior to the passing of this Act shall enure and continue to have full force and effect.

(3.) Nothing in this Act shall prejudice or affect any order made under the Principal Act prior to the passing of this Act or the right to appeal from any such order. Orders already made preserved.

TESTATORS' FAMILY MAINTENANCE.

See SUCCESSION.

THURSDAY ISLAND, LOCAL GOVERNMENT OF.

See LOCAL AUTHORITIES.