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# ELIZABETHAE II REGINAE

A.D. 1990

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No. 15 of 1990

**An Act to amend the Aged and Infirm Persons' Property Act, 1940.**

[Assented to 12 April 1990]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Aged and Infirm Persons' Property Act Amendment Act, 1990*.

(2) The *Aged and Infirm Persons' Property Act, 1940*, is referred to in this Act as "the principal Act".

## Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

## Interpretation

3. Section 3 of the principal Act is amended—

(a) by striking out the definition of "court" in subsection (1) and substituting the following definition:

"court" means—

(a) the Supreme Court;

or

(b) in relation to a matter in which a District Court has jurisdiction—  
the Supreme Court or a District Court;;

and

(b) by striking out from subsection (1) the definition of "Master".

## Exercise of jurisdiction by court

4. Section 4 of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

(1) The Supreme Court has jurisdiction to hear and determine any application or other proceeding under this Act.

(1a) Where an action for damages for personal injury is brought in a District Court, the Court has jurisdiction in that action to make a protection order under section 8a and, if the Court makes such an order, the same or any other District Court has jurisdiction to hear and determine any consequential or related proceeding under this Act.

**Repeal of s. 5**

5. Section 5 of the principal Act is repealed.

**Procedure where case not provided for**

6. Section 6 of the principal Act is amended—

(a) by striking out from subsection (1) “the Master, having regard to the general practice of the court, may direct (and *ex parte* if he thinks fit)” and substituting “the court may direct”;

(b) by striking out from subsection (1) “as he deems fit” and substituting “as the court thinks fit”;

and

(c) by striking out subsection (2) and substituting the following subsection:

(2) Subject to any direction by the court to the contrary, an application for a direction under subsection (1) may be made *ex parte*.

**Appointment of manager**

7. Section 10 of the principal Act is amended by striking out from subsection (4) “the Master” and substituting “the court”.

**Application to court by Public Trustee**

8. Section 24 of the principal Act is amended by striking out from subsection (3) “the Master’s office” and substituting “the court”.

**Substitution of s. 30**

9. Section 30 of the principal Act is repealed and the following section is substituted:

**Relationship between this Act and the Mental Health Act, 1977**

30. (1) A protection order cannot be made under this Act in relation to a person for whose estate an administrator has been appointed under the *Mental Health Act, 1977*.

(2) If an administrator of the estate of a protected person is appointed under the *Mental Health Act, 1977*, the administrator must, within one month of the date of appointment, file a notice of the appointment in the court (and a copy of the notice must be served on the former manager of the protected estate in accordance with the rules of court).

(3) Where a notice is filed in the court under subsection (2), the protection order will be taken to have been rescinded as from the date of the appointment of the administrator.

(4) The former manager of the protected estate has the same obligations in relation to the filing of accounts, statements and affidavits as if the protection order had been rescinded by the court.

(5) Except as provided in this section, the *Mental Health Act, 1977*, does not derogate from this Act.

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**Power of examiner to conduct examination**

10. Section 38 of the principal Act is amended by striking out from subsection (1) "the Master or a special magistrate" and substituting "an officer of the court or other person appointed by the court to conduct the examination".

**Use of depositions as testimony**

11. Section 40 of the principal Act is amended by striking out "or a Judge may upon such terms (if any) as it or he deems" and substituting "may upon such terms (if any) as it thinks".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor