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## ELIZABETHAE II REGINAE

A.D. 1960

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## No. 24 of 1960

An Act to amend the Administration and Probate Act,  
1919-1956.

[Assented to 13th October, 1960.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

**Short titles.**

**1.** (1) This Act may be cited as the "Administration and Probate Act Amendment Act, 1960".

(2) The Administration and Probate Act, 1919-1956, as amended by this Act, may be cited as the "Administration and Probate Act, 1919-1960".

(3) The Administration and Probate Act, 1919-1956, is hereinafter referred to as "the principal Act".

**Incorporation.**

**2.** This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

**Amendment of principal Act, s. 17.**

**3.** Section 17 of the principal Act is amended by inserting after the word "shall" in the ninth line thereof the words "subject to subsection (4) of section 65 of this Act".

**Amendment of principal Act, s. 18.**

**4.** Section 18 of the principal Act is amended by striking out all the words after the word "as" in subsection (1) thereof and inserting in lieu thereof the words "is required under section 31 of this Act".

5. Paragraph (b) of section 31 of the principal Act is amended by inserting after the word "administration" first occurring therein the words "or such extended time as the Public Trustee upon application by the administrator shall allow". Amendment of principal Act, s. 31.
6. Section 56 of the principal Act is amended— Amendment of principal Act, s. 56.
- (a) by inserting after the word "administration" first occurring therein the words "or within such extended time as the Public Trustee upon application by the administrator shall allow,"; and
- (b) by inserting at the end thereof the following subsection (the preceding part of the section being designated as subsection (1) thereof):—
- (2) This section shall not apply in any case where the administrator is a limited company registered under the Companies Act, 1934-1956 and is acting as administrator in pursuance of any powers granted to it by any Act.
7. Section 61 of the principal Act is amended by striking out the figure "87" therein and inserting in lieu thereof the figure "79". Amendment of principal Act, s. 61.
8. Section 62 of the principal Act is amended by striking out the figure "91" therein and inserting in lieu thereof the figure "85". Amendment of principal Act, s. 62.
9. Section 65 of the principal Act is amended— Amendment of principal Act, s. 65.
- (a) by inserting after the word "property" first occurring in subsection (1) thereof the words "within this State"; and
- (b) by inserting at the end thereof the following subsection:—
- (4) This section shall not apply to an administrator acting under any probate or administration not granted by the Supreme Court but sealed with the seal of the Supreme Court in pursuance of the provisions of section 17 of this Act.
10. Section 68 of the principal Act is repealed. Amendment of principal Act, s. 68.
11. Subsection (7) of section 102 of the principal Act is amended— Amendment of principal Act, s. 102.
- (a) by striking out the words "shall be retained by the Public Trustee and transferred to a separate account in the books of the Public Trustee" therein

and inserting in lieu thereof the words "shall be paid by the Public Trustee to the Treasurer and by him kept in a trust account at the Treasury";

- (b) by inserting therein after the word "applied" the words "by the Treasurer upon the request";
- (c) by inserting at the end of the first sentence thereof the words "or in connection with the administration of any estate by the Public Trustee";
- (d) by striking out the last sentence thereof; and
- (e) by inserting at the end thereof the following paragraph:—

The moneys standing to the credit of the Common Fund Reserve account in the books of the Public Trustee at the commencement of the Administration and Probate Act Amendment Act, 1960 shall be paid to the Treasurer for credit to the said trust account and shall form part of the Common Fund Reserve Account as hereinbefore provided.

Amendment of  
principal Act,  
s. 102a.

**12.** Section 102a of the principal Act is amended by striking out the words "twenty thousand pounds" therein and inserting in lieu thereof the words "one hundred thousand pounds".

Amendment of  
principal Act,  
s. 106.

**13.** Section 106 of the principal Act is amended—

- (a) by striking out paragraph (a) thereof;
- (b) by striking out the words "the funds under the control of the Public Trustee are" in paragraph (b) thereof and inserting in lieu thereof the words "or investments in which the common fund referred to in section 102 of this Act or any part thereof is".

Amendment of  
principal Act,  
s. 110.

**14.** Section 110 of the principal Act is amended—

- (a) by inserting at the end thereof the following proviso:—

Provided further that the Public Trustee may, without the approval of a Judge, advance and pay under this section any sum not exceeding forty per centum of the value of the property so vested in the Public Trustee.

- (b) by striking out the words "the Judge" in subsection (2) thereof and inserting in lieu thereof the words "a Judge from time to time in respect of all such sums";

(c) by inserting at the end thereof the following subsection :—

(3) The Public Trustee shall be deemed to have had full power and authority to make advances and payments for or on account of any estate without the approval of a Judge where the amount of such advances has not exceeded forty per centum of the value of the property vested in the Public Trustee to the credit of any such estate.

15. Subsection (1) of section 116 of the principal Act is amended by inserting at the end thereof the following words :—

Amendment of  
principal Act,  
s. 116.

“and all sums of money not exceeding five hundred pounds not belonging to a person not *sui juris* which, on the first day of the said month, have been in his hands to the credit of any other deceased estate and unclaimed for the term of six years next preceding”.

16. Section 117 of the principal Act is amended by inserting at the end thereof the following subsection :—

Amendment  
principal Act,  
s. 117.

(4) Notwithstanding the provisions of the preceding subsections of this section, the Treasurer may, at any time, pay any such money to the Public Trustee upon the certificate of the Public Trustee that the identity and whereabouts of the person or persons entitled thereto have been ascertained.

17. The following section is inserted in the principal Act after section 119 thereof :—

Enactment of  
s. 119a of  
principal Act—

119a. A certificate under the hand and seal of the Public Trustee certifying that administration has been granted to the Public Trustee, or to the Public Trustee jointly with another person or persons, or that he or they has or have been authorized under this Act to administer the estate of a deceased person, and stating the date on which such administration was granted or that he or they became so authorized, shall, until the contrary is proved, be accepted by all courts, tribunals, officers and other persons as sufficient evidence of the facts so certified and stated.

Certificate by  
Public Trustee  
of appoint-  
ment of  
administrator.

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

J. M. NAPIER, Lieutenant-Governor.