

AUSTRALIAN CAPITAL TERRITORY.

No. 9 of 1942.

AN ORDINANCE

Relating to Testamentary Dispositions by Persons on War Service and by Mariners and Seamen.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1940*, as follows:—

1. This Ordinance may be cited as the *Wills (War Service) Ordinance 1942*.* Short title.

2. In this Ordinance—

“the Act” means the *Wills, Probate and Administration Act, 1898*, of the State of New South Wales, in its application to the Territory. Definition.

3.—(1.) In order to remove doubts as to the construction of the Act, it is hereby declared and ordained that section ten of that Act authorizes and always has authorized any soldier being in actual military service, or any mariner or seaman being at sea, whether under the age of twenty-one years or not, to dispose of his personal estate as he might have done under the law of the State of New South Wales before the coming into operation of the *Wills, Probate and Administration Act, 1898*, of that State, or any corresponding previous enactment. Explanation of section 10 of the Act.

(2.) In this section “soldier” includes a member of the Air Force of the Commonwealth.

4. Section ten of the Act shall extend to any member of His Majesty’s naval or marine forces or the naval forces of the Commonwealth, not only when he is at sea, but also when he is so circumstanced that if he were a soldier he would be in actual military service within the meaning of that section. Extension of section 10 of the Act.

5. A testamentary disposition of any real estate in the Territory made by any person to whom section ten of the Act applies or to whom that section is extended by this Ordinance, and who dies after the commencement of this Ordinance, shall, notwithstanding that the person making the disposition was at the time of making it under twenty-one years of age, or that the disposition has not been made in such manner or form as was at the date upon which this Ordinance came into operation required by the law of the Territory, be valid in any case where the person making the disposition was of such age, and the disposition has been made in such manner and form, that, if the disposition had been a disposition of personal estate made by such a person domiciled in the Territory, it would have been valid. Testamentary dispositions of real estate.

* Notified in the *Commonwealth Gazette* on 16th April, 1942.

Appointment of
testamentary
guardians.

6. Where any person dies after the commencement of this Ordinance, having made a will which is, or which, if it had been a disposition of property, would have been rendered valid by section ten of the Act or this Ordinance, any appointment contained in that will of any person as guardian of the infant children of the testator shall be of the same force and effect as if made in a will executed in the manner and form required by the law of the Territory at the date upon which the will was made.

Revocation of
wills by minors.

7. Any person who, being then under the age of twenty-one years, has made a will which is rendered valid by section ten of the Act or by this Ordinance, may, at any time after section ten of the Act ceases to apply to him, notwithstanding that he is under twenty-one years of age, revoke that will in any manner (other than by the making of another will) in which the Act provides that a will may be revoked.

Persons
included within
the meaning of
the expression
"soldier in
actual military
service."

8.—(1.) Without limiting the generality of the meaning of the expression "soldier being in actual military service", that expression shall, for the purposes of this Ordinance, be deemed to include any person who, during any war in which His Majesty is engaged—

- (a) is on active service;
- (b) is employed outside Australia as a representative of any organization rendering philanthropic, welfare or medical services to members of His Majesty's forces; or
- (c) is a prisoner of war or is interned in a country under the sovereignty or in the occupation of the enemy or is interned in a neutral country.

(2.) In this section—

"active service" means service outside Australia in any of His Majesty's forces and includes the service of a member of any of those forces enlisted, appointed or accepted for service outside Australia after he has received orders to proceed on such service;

"His Majesty's forces" includes the Naval, Military and Air Forces of the Commonwealth, and of any other part of His Majesty's dominions, and includes a Nursing Service or any Voluntary Aid Detachment or other women's auxiliary force, detachment or service established by the Commonwealth or any other part of His Majesty's dominions in connexion with any of those Forces.

Dated this fourteenth day of March, One thousand nine hundred and forty-two.

GOWRIE

Governor-General.

By His Excellency's Command,

H. V. EVATT

for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.