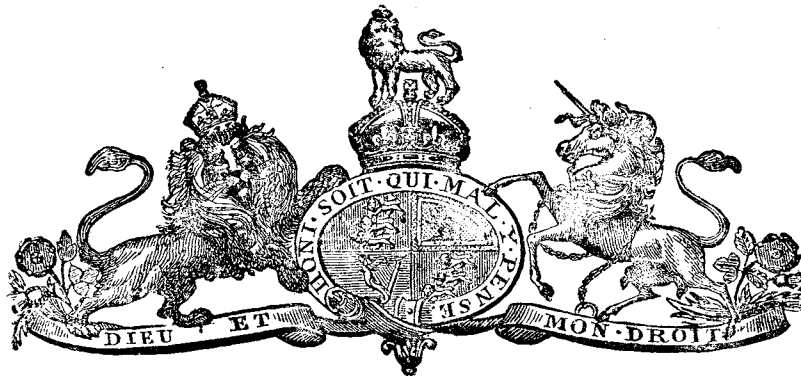


TASMANIA



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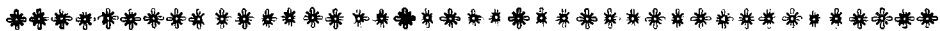
ANNO TERTIO

GEORGI V. REGIS.

No. 7.

ANALYSIS.

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|---|--|
| <ul style="list-style-type: none"> <li>1. Short title.</li> <li>2. Interpretation.<br/>"Court."<br/>"Judge."<br/>"Testator."<br/>"Widow."<br/>"Will."</li> <li>3. Court or judge may make order for widow's or children's maintenance.</li> <li>4. Application by summons in chambers.</li> <li>5. Service of notice of application.</li> </ul> | <ul style="list-style-type: none"> <li>6. Powers of court or judge.</li> <li>7. Court or judge to consider net estate and widow's or children's means.</li> <li>8. Cases in which court or judge may refuse application.</li> <li>9. Contents of order.<br/>Certified copy of order to be made on probate.<br/>Provision to operate as a codicil.</li> <li>10. Adjustment of probate duty.</li> <li>11. Time within which application to be made.</li> </ul> |
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AN ACT to Assure to the Family of a Testator a certain Interest in the Estate of such Testator, and for other purposes.

A.D.  
**1912.**

[6 December, 1912.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Testator's Family Maintenance Act, 1912." Short title.

Ad.]

*Testator's Family Maintenance.*

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Interpretation.

"Court."  
 "Judge."  
 "Testator."  
 "Widow."  
 "Will."

Court or judge  
 may make order  
 for widow's or  
 children's  
 maintenance.

**2** In this Act—

"Court" means the Supreme Court of Tasmania :

"Judge" means a judge of the court :

"Testator" includes testatrix :

"Widow" includes widower :

"Will" includes codicil.

**3** If any person disposes of his property, either wholly or partly, by will in such a manner that upon his death his widow or children or any of them are left without sufficient means for their maintenance and support, the court in its discretion, or a judge in his discretion, may, if the court or judge think fit, upon the application by or on behalf of the widow or children or any of them, order such provision as to the court or judge seems proper, having regard to all the circumstances of the case, to be made out of the estate of such deceased person in or towards the maintenance and support of such widow or children or any of them.

The court or judge may make such other order in the matter (including any order as to costs) as the court or judge may think fit.

Application by  
 summons in  
 chambers.

**4**—(1) Every such application shall be made by summons in chambers, entitled "In the matter of 'The Testator's Family Maintenance Act, 1912,' and In the matter of the will and estate of deceased."

(2) Such summons shall be served on the executor of the will of the deceased person or on the person to whom letters of administration (with the will annexed) of the estate of the deceased person shall have been granted.

(3.) The judge may, if he thinks fit, adjourn such summons into court.

Service of notice  
 of application.

**5** The court or judge may order such other persons as the court or judge may think fit to be served with notice of such application.

Powers of court  
 or judge.

**6** At the hearing of such application the court or judge shall inquire fully into the testator's estate, and for that purpose may—

i. Summon and examine the widow and also such witnesses as may be necessary : and

ii. Require the executor or person applying for probate or letters of administration to furnish full particulars of the testator's estate.

Court or judge  
 to consider net  
 estate and widow's  
 or children's  
 means.

**7** In granting or refusing any such application, and in fixing the amount of the provision to be made under this Act for the widow or children or any of them, the court or judge shall have regard (*inter alia*) to—

i. The net value only of the estate of the deceased person, as ascertained by deducting from the gross value thereof all

*Testator's Family Maintenance.*

debts, testamentary and funeral expenses, and all other lawful liabilities to which the said estate is subject: and

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- ii. Whether the widow or children or any of them are entitled to independent means, whether secured by any covenant, settlement, transfer, or other provision made by the deceased person during his life or derived from any other source whatsoever.

**8**—(1) The court or judge may refuse any such application if the character or conduct of any person by or on behalf of whom the application is made is such as in the opinion of the court or judge should disentitle him or her to the benefit of any provision under this Act.

Cases in which court or judge may refuse application.

(2) The court or judge in making any order under this Act may impose such conditions, restrictions, and limitations, whether to prevent, restrict, or defeat any alienation or charge of or upon the benefit of any provision made under such order or otherwise, as the court or judge may think fit.

**9**—(1) Every order under this Act making provision for any widow or child shall specify (*inter alia*)—

Contents of order

- i. The amount and nature of such provision :
- ii. The manner in which such provision shall be made ; or be raised or paid, out of some and what part or parts of the estate of the deceased person ; and
- iii. How and by whom the burden of any such provision shall be borne : and
- iv. Any conditions, restrictions, or limitations imposed by the court or judge.

(2) The court or judge shall in every case in which provision is made under this Act direct that a certified copy of such order be made upon the probate of the will or letters of administration (with the will annexed) of the estate of the deceased person, and for that purpose shall retain such probate or letters until such copy is made.

Certified copy of order to be made on probate.

(3) Every provision made under this Act shall, subject to the provisions of this Act, operate and take effect as if the same had been made by a codicil to the will of the deceased person executed immediately before his death.

Provision to operate as a codicil.

**10** For the purpose of apportioning the duty payable on the estate of any deceased person any provision made under this Act shall be deemed to be a bequest made by such deceased person by a codicil executed immediately before his death and payable in the manner hereinbefore provided.

Adjustment of probate duty.

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*Testator's Family Maintenance.*

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Time within  
which application  
to be made.

**11** The court or judge shall have no jurisdiction to hear any application, or to make any order under this Act, unless the summons hereinbefore mentioned be taken out not later than Six months after the date of grant of probate of such will or of letters of administration (with such will annexed), as the case may be.