



ANNO VICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1973

No. 16 of 1973

An Act to amend the Aged and Infirm Persons' Property Act, 1940-1968.

[*Assented to 13th September, 1973]*

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 "Aged and Infirm Persons' Property Act Amendment Act, 1973".

(2) The Aged and Infirm Persons' Property Act, 1940-1968, as amended by this Act, may be cited as the "Aged and Infirm Persons' Property Act, 1940-1973".

(3) The Aged and Infirm Persons' Property Act, 1940-1968, is hereinafter referred to as "the principal Act".

**Amendment of
s. 8—
Application for
protection
order.**

2. Section 8 of the principal Act is amended by striking out from subsection (1) the word "Every" being the first word in that subsection and inserting in lieu thereof the passage "Except in the case of an application made under subsection (1) of section 8a of this Act, every".

**Enactment of
s. 8a of
principal Act—**

3. The following section is enacted and inserted in the principal Act immediately after section 8 thereof:—

**Protection
order on
court's own
motion.**

8a. (1) Where, in any action by a person for damages for personal injury sustained by him, it appears to the court that, by reason of that injury, that person suffers or is likely to suffer

from some physical or mental infirmity by reason of which he is—

- (a) unable, wholly or partially, to manage his affairs;
 - (b) subject to, or liable to be subjected to, undue influence in respect of his estate, or the disposition thereof, or of any part thereof;
- or
- (c) otherwise in a position which in the opinion of the court renders it necessary in the interests of that person or of those dependent on him that his property should be protected as provided by this Act,

subject to subsection (2) of this section the court may, of its own motion or on the application of a prescribed person and before assessing the amount of the damages, make a protection order in respect of the estate or part of the estate of the person in respect of whom the damages are to be awarded.

(2) The court shall, before making a protection order under this section—

- (a) where the application is made by a prescribed person, other than the person in respect of whom the damages are to be awarded, cause notice of its intention to consider the making of the order to be given personally to that person, unless the court in any special case otherwise directs;

and

- (b) receive such evidence and hear such argument relevant to the matter as to the court seems desirable or expedient.

(3) A reference in subsection (1) of this section to an action includes a reference to an action which had been commenced before, and which had not been completed by, the day on which the Aged and Infirm Persons' Property Act Amendment Act, 1973, came into operation.

(4) In this section a "prescribed person" means—

- (a) the person in respect of whom the damages are to be awarded;
- (b) the husband or wife of that person;

- (c) any near relation by blood or marriage of that person;
- (d) the Public Trustee;
- or
- (e) any other person who adduces proof of circumstances which in the opinion of the court make it proper that that person should make an application or be otherwise heard in the proceedings.

Amendment of principal Act, s. 9a—

Investigation by Director-General of Community Welfare.

4. Section 9a of the principal Act is amended—

- (a) by striking out from subsection (1) the passage "Director of Social Welfare" and inserting in lieu thereof the passage "Director-General of Community Welfare";
- (b) by striking out from subsection (1) the word "Director" and inserting in lieu thereof the word "Director-General";
- (c) by striking out from subsection (2) the word "Director" and inserting in lieu thereof the word "Director-General";
- (d) by striking out from subsection (2) the passage "Social Welfare" and inserting in lieu thereof the passage "Community Welfare";
- (e) by striking out from subsection (4) the passage "Director of Social Welfare" and inserting in lieu thereof the passage "Director-General of Community Welfare";
- (f) by striking out from subsection (4) the passage "Department of Social Welfare" and inserting in lieu thereof the passage "Department for Community Welfare";
- (g) by striking out from subsection (5) the word "Director" first occurring and inserting in lieu thereof the word "Director-General";
- (h) by striking out from subsection (5) the passage "of Social Welfare" and inserting in lieu thereof the passage "for Community Welfare";
- and
- (i) by striking out from subsection (5) the word "Director" second occurring and inserting in lieu thereof the word "Director-General".

Amendment of principal Act, s. 10—
Appointment of manager.

5. Section 10 of the principal Act is amended by striking out from subsection (1) the passage "grant the application" and inserting in lieu thereof the passage "make a protection order".

6. Section 22 of the principal Act is amended by striking out from subsection (1) the passage "The originating summons shall be the commencement of the proceedings which" and inserting in lieu thereof the passage "Proceedings under this Part, whether commenced by originating summons, application under section 8a of this Act or on the court's own motion under that section".

Amendment of
principal Act,
s. 22—
Proceedings.

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

W. R. CROCKER, Governor's Deputy