REGISTRATION OF DEATHS ABROAD BILL 1984

Date Introduced: 8 March 1984
House: House of Representatives
Presented by: Hon. W.G. Hayden, M.P., Minister for Foreign Affairs

Short Digest of Bill

Purpose

To provide for registration of deaths of Australians occurring outside Australia, or on Australian ships or aircraft, where such death is not registerable under the law of a State or Territory.

Background

The number of Australians dying abroad may be more than two hundred in any one year. The total mortality within Australia is on the order of one hundred thousand. Deaths occurring abroad are excluded from death statistics published by the Australian Bureau of Statistics[1].

Persons whose death is to be registerable under the Bill comprise Australian citizens, persons ordinarily resident in Australia or an external territory, and persons receiving some benefit under the Social Security Act 1947 or Repatriation Act 1920, provided that the death is not registerable under State or Territory legislation. State and Territory legislation may permit registration within the State of deaths occurring en route to the State.

The provision for registration of the death abroad of any person in receipt of Australian social security or repatriation benefits is expected to aid the policing of entitlement to benefit.

The administration of the estate of a person dying testate abroad cannot begin without probate of the will. Where a death certificate is not available, delay and expense may be increased by the need for court proceedings before probate of the will is granted. Jurisdiction for issue of probate requires, in both New South Wales and Victoria, that the Court be "satisfied, whether by direct evidence or on presumption of death" that death has occurred[2].
The Bill provides that the Register, and copies or extracts obtained from it, or a Certificate of Death Abroad issued by the Registrar, form prima facie evidence of the facts stated in them (clause 23). The practical difficulties, and onus of proof, is thus cast on any person disputing the death.

Main Provisions

The Register of Deaths Abroad is to be located in the A.C.T. and maintained by the A.C.T. Registrar of deaths (clauses 7, 5).

Deaths registerable under the law of a State or Territory, or registerable under laws of a foreign country where the death occurred aboard a foreign aircraft or ship, are not registerable under the Bill (clause 8). The Bill may operate retrospectively to cover deaths before its commencement. Clause 9 provides for a person disappearing from a ship or aircraft to be deemed to have died.

"Registering officers" comprise certain diplomatic and consular personnel and Ministers of State. A death is registered by issue of a Certificate of Death Abroad (clause 15), either on the personal knowledge of the registering officer, or on application by any person under clause 11.

The Certificate of Death Abroad is to be sent to the Registrar for recording in the Register of Deaths Abroad located in the A.C.T. (clause 16).

Other provisions allow review of decisions by the Administrative Appeals Tribunal, authorize issue of searches and copies of the Register, and facilitate correction of errors.

For further information, if required, contact:

Law & Government Group
LEGISLATIVE RESEARCH SERVICE

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References

2. Wills, Probate and Administration Act 1898 (NSW), SAOA; Administration and Probate Act 1958 (Victoria), s.7.