

TASMANIA

---

**ADMINISTRATION AND PROBATE  
AMENDMENT BILL 2005**

---

**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 27 amended (Rights of action by and against personal representatives)



**ADMINISTRATION AND PROBATE  
AMENDMENT BILL 2005**

*(Brought in by the Minister for Justice and Industrial  
Relations, the Honourable Judith Louise Jackson)*

**A BILL FOR**

**An Act to amend the *Administration and Probate Act 1935***

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. Short title**

This Act may be cited as the *Administration and Probate Amendment Act 2005*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Administration and Probate Act 1935\** is referred to as the Principal Act.

---

\*No. 38 of 1935

**4. Section 27 amended (Rights of action by and against personal representatives)**

Section 27 of the Principal Act is amended by inserting after subsection (3) the following subsections:

(3A) Notwithstanding subsection (3)(c), damages for pain and suffering, for any bodily or mental harm or for curtailment of expectation of life, may be recovered if –

- (a) the cause of action related to a dust-related condition; and
- (b) the deceased person commenced a proceeding in relation to the cause of action before the deceased person died; and
- (c) the deceased person died as a result of the dust-related condition or the dust-related condition was a contributing factor to the deceased person's death.

(3B) For the purposes of subsection (3A) –

**“dust-related condition”** means –

- (a) any of the following diseases:
  - (i) aluminosis;
  - (ii) asbestosis;
  - (iii) asbestos-induced carcinoma;

- (iv) asbestos-related pleural diseases;
  - (v) bagassosis;
  - (vi) berylliosis;
  - (vii) byssinosis;
  - (viii) coal dust pneumoconiosis;
  - (ix) farmers' lung;
  - (x) hard metal pneumoconiosis;
  - (xi) mesothelioma;
  - (xii) silicosis;
  - (xiii) silico-tuberculosis;
  - (xiv) talcosis; or
- (b) any other pathological condition of the lung, pleura or peritoneum that is attributable to dust.
- (3C) Subsection (3A) applies in relation to a proceeding, in respect of an action that survives for the benefit of the estate of a deceased person, whether the proceeding commenced before or after the commencement of that subsection unless –
- (a) judgment has been given in relation to the proceeding; or
  - (b) the proceeding has been settled or withdrawn.