

16 June 2020

The Hon. Mia Jane Davies MLA
Leader of The Nationals WA
By email: mia.davies@mp.wa.gov.au

The Hon. Jacqui Ellen Boydell MLC
Deputy Leader of The Nationals WA
By email: jacqui.boydell@mp.wa.gov.au

Dear Ms Davies and Ms Boydell,

**STEP Western Australia submission - WA Legislative Agenda : Administration
Amendment Bill 2018 and Legislation Bill 2018 – Endorsement of submission**

We the Society of Trust & Estate Practitioners Australia Pty Limited (STEP Australia) represent professionals from across Australia who are specialists in trusts, estate planning and in supporting the needs of families (young and old, wealthy and modest). The objective of a STEP Professional is to advance the interests of families across generations. This often involves us in identifying issues of relative importance to families and bringing these to the attention of those who can make a positive difference. This is the purpose of this submission.

STEP Australia's membership includes lawyers, accountants, financial wealth advisors and trustee company professionals from across Australia; our members bring a multi-disciplinary approach to the benefit of their clients. It is this unique multi-disciplinary approach that supports this submission.

STEP Australia endorses the submission prepared by STEP Western Australia dated 4 March 2020 (STEP Western Australia Submission) concerning the "WA Legislative Agenda - Administration Amendment Bill 2018 and Legislation Bill 2018".

More detailed information is contained in the STEP Western Australia Submission attached.

If you would like to discuss any of the above, please contact Peter Bobbin TEP, STEP Australia Board Chair, on email pbobbin@colemangreig.com.au.

Yours sincerely



Peter Bobbin

Chair of STEP Australia

CC: Jim O'Donnell TEP, Chair of STEP Western Australia
E: jodonnell@jacmac.com.au



4 June 2020

The Hon. Mia Jane Davies MLA
Leader of The Nationals WA
By email: mia.davies@mp.wa.gov.au

The Hon. Jacqui Ellen Boydell MLC
Deputy Leader of The Nationals WA
By email: jacqui.boydell@mp.wa.gov.au

Dear Ms Davies and Ms Boydell

WA Legislative Agenda

Administration Amendment Bill 2018 and Legislation Bill 2018

About STEP

I am the Chair of the Western Australian branch of The Society of Trust and Estate Practitioners (**STEP**).

STEP was set up in 1993. It has over 21,000 members worldwide in 110 branches and chapters across 96 countries. The WA Branch has been operating since 2009 and has numerous members.

Our branch represents professionals from across WA who are specialists in trusts, estate planning and in supporting the needs of families (young and old, wealthy and modest). Our membership includes lawyers, accountants, financial wealth advisers and trustee company professionals. Our members bring a multi-disciplinary approach for the benefit of their clients.

The objective of STEP professionals is to advance the interests of families across generations. This often involves us identifying issues of relative importance to families and bringing those issues to the attention of those who can make a positive difference.

Background

This submission follows a letter that we sent to the Premier, the Attorney General, and the Leader of the Government in the Legislative Council on 4 March 2020 regarding the above two Bills.

We received a positive initial reply on behalf of the Attorney General on 23 March 2020, which stated that the two Bills:

“are among a number of other important Bills the McGowan Government is seeking to advance as soon as possible now that the VAD Bill has been dealt with. It is anticipated that these Bills will be progressed as soon as possible, subject to the Legislative Council’s priorities”.

The Attorney General later advised us by letter on 28 May 2020 that:

“the Government continues to recognise the importance of these Bills and would be supportive of them receiving an expedited passage through the Legislative Council, subject to support from opposition parties”.

We wrote again to the Leader of the Government in the Legislative Council on 20 April 2020. The Hon Sue Ellery MLC replied on 2 June 2020, stating that:

“it remains the Government’s intention to ensure the Administration Amendment Bill 2018 and Legislation Amendment Bill 2018 pass the WA Parliament before it is prorogued later this year. In fact, both bills have been the subject of a proposal by the Government to the seven other parties in the Legislative Council seeking agreement to expedite their passage”.

Our purpose in writing to you is to ascertain whether The Nationals WA would also support the two Bills for expedited passage in the Legislative Council.

Incidentally, we also wrote to the Leader and Deputy Leader of the Opposition in the Legislative Council on 9 April 2020. The Shadow Attorney General, The Hon Michael Mischin MLC, replied to us on 15 April 2020, stating that the Opposition:

- accepts the merits of both Bills;
- would welcome the introduction of these Bills for debate and passage; and
- does not expect that debate and consideration will take up any exceptional time.

Request for priority passage of delayed Bills

A long list of Bills were held up as a result of the lengthy debate on the *Voluntary Assisted Dying Bill* last year.

STEP WA welcomed the Government's announcement in February to give priority to passing the various delayed Bills.

Among the stalled Bills were the following, which were both introduced in June 2018:

1. Administration Amendment Bill 2018

This Bill was introduced into the Legislative Assembly on 27 June 2018. It passed the Legislative Assembly after a third reading and was introduced into the Legislative Council on 3 April 2019. The last action on this Bill was a Second Reading in the Legislative Council on that date.

Since it was introduced into the Legislative Council, this Bill has never appeared on a Weekly Bulletin of business in the Council.

The Legislative Council should give top priority to the passage of this Bill. It will give effect to critically needed amendments to uplift the partner's statutory legacy under the intestacy provisions of the *Administration Act 1903*.

Currently a partner's legacy is woefully inadequate, namely \$50,000 where the intestate dies leaving issue, or \$75,000 where the intestate leaves no issue.

These amounts are far behind the rest of Australia and have led to unjust outcomes for surviving partners in innumerable cases. More than 50% of adult Australians do not have a valid Will.¹ It has been 38 years since the intestacy provisions in WA were last amended. This Bill is long overdue.

The Bill is commendable as it not only proposes to increase the statutory legacy for a surviving partner to a much more respectable \$435,000 (leaving issue) and \$650,000 (leaving no issue), bringing WA closer in line with the other States, but it also seeks to insert a formula for calculating the amount of statutory legacies from time to time, thus ensuring statutory legacies are more likely to keep pace with societal expectations in the future.

2. Legislation Bill 2018

This Bill was also introduced into the Legislative Assembly on 27 June 2018. It passed the Legislative Assembly after a third reading on 30 October 2018 and was introduced into the Legislative Council the following day. The last action on this Bill was a Second Reading in the Council on 31 October 2018.

While this Bill appeared on Weekly Bulletins for the sitting weeks commencing 19 February, 12 March, 19 March, 2 April and 9 April 2019, it

¹ <https://www.publictrustee.wa.gov.au/W/wills.aspx?uid=1915-0728-4235-5275>

was given no higher priority than the fifth of six Bills, with very little if any prospect of being considered and debated; and the Government has not listed the Legislation Bill for prospective debate since then.

We request that priority also be given to the passage of this Bill in the Legislative Council. It will modernise the process for publishing WA legislation (including the Gazette), making WA legislation publicly available, and give official status to both hard copy and electronic versions. It will also confer a set of editorial powers on the Parliamentary Counsel's Office, enabling errors to be corrected without the need for a further enactment by Parliament. This is a critical reform.

Next Steps

These two Bills have languished in the Legislative Council. They have not been given the priority and attention that they deserve.

We encourage top priority to be given to the passage of these two Bills in the Legislative Council prior to the end of the current session of Parliament.

The proposed legislation is uncontroversial. In the case of the intestacy reforms, the amendments have been needed for a long time and will make a major, direct difference to many families in this State who are affected by the loss of a loved one without a will, or an effective will.

We endorse these Bills for passage without amendment. They are a credit to the many hours of consideration by numerous people prior to their introduction as Bills in State Parliament, starting with the WA Law Reform Commission in 1988 (in the case of the intestacy reforms), followed by the legal profession and various committees.

Please let us know if these Bills have the support of The Nationals WA.

Contact

Your primary point of contact for this submission is the chair of STEP WA's Policy Sub-Committee, Jim O'Donnell, whose details are below.

Yours sincerely

J O'Donnell

Jim O'Donnell
Chair of STEP Western Australia
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