



4 March 2020

The Hon. Mark McGowan MLA
Premier of Western Australia
By email: mark.mcgowan@mp.wa.gov.au

The Hon. John Quigley MLA
Attorney General of Western Australia
By email: john.quigley@mp.wa.gov.au

The Hon. Suzanne Mary Ellery MLC
Leader of the Government in the Legislative Council
By email: sue.ellery@mp.wa.gov.au

The Hon. Pierre Shuai Yang MLC
Government Whip in the Legislative Council
By email: pierre.yang.mp@mp.wa.gov.au

Dear Premier, Attorney General, Ms Ellery and Mr Yang

WA Legislative Agenda

About STEP

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

STEP is a global professional body that helps families plan for their future. We provide confidence to families by setting standards, training and educating our members, and upholding those standards.

STEP was set up in 1993. It has over 21,000 members worldwide in 110 branches and chapters across 96 countries. STEP Members are from a variety of professions including lawyers, judicial officers, accountants, trustees and trust administration, banking and taxation advisers.

The WA Branch has been operating since 2009 and now has 86 members.

Full STEP members, known as TEPs, are internationally recognised as experts in their field, with proven qualifications and experience.

STEP works with policymakers and regulatory authorities across the world to examine the likely impact on families of policy proposals and to develop guidance and support.

STEP also provides educational resources for the public to help them better understand key issues relating to family inheritance and succession planning.

Request for priority to pass 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 welcomes the Government's decision last month 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. The last action on this Bill was a Second Reading in the Legislative Council on 3 April 2019.

The Government 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 (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.

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

2. Legislation Bill 2018.

This Bill was also introduced into the Legislative Assembly on 27 June 2018. The last action on this Bill was a Second Reading in the Legislative Council on 31 October 2018.

We request that the Government also give priority to the passage of this Bill. 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

We truly hope that top priority can be given by this Government to passing these two Bills as soon as possible in the current session of Parliament. The proposed legislation is uncontroversial, it has been needed for a long time, and (in the case of the intestacy reforms) will make a big difference to many families in this State.

We endorse these Bills for passage without amendment. Many people have already contributed a lot of time and effort into these reforms. We have no doubt that long hours have gone into drafting the reforms prior to their introduction as Bills in the Legislative Assembly, starting in the WA Law Reform Commission in 1988 (in the case of the intestacy reforms), followed by the legal profession and various committees.

Your primary point of contact for this submission is the chair of STEP WA's Policy Sub-Committee, Jim O'Donnell 08 9426 6751 jodonnell@jacmac.com.au.

STEP WA is willing to work with the WA Government on any issues, points of law and possible reform touching or concerning trust and estate matters, including incapacity, in this State. We are very willing to respond to questions.

Yours sincerely



Jim O'Donnell

Chair of STEP Western Australia

E: jodonnell@jacmac.com.au

T: +61 8 9426 6751