



Administration of Assets of the Solvent Estates of Deceased Persons in

the Payment of Debts and Legacies

that the creation of a trust or charge for the payment of debts ousts the Act unless the will provides to the contrary, but that Class 1 assets should be first applied in the payment of unsecured debts.

A comprehensive outline of the recommendations may be found at pages 43–48 of the Commission's final report.

Legislative or Other Action Undertaken

In 1993, partly as a result of the failure of the Standing Committee of Attorneys-General to adopt the recommendations from the report on *Recognition of Interstate and Foreign Grants of Probate and Administration*⁵, the Queensland Law Reform Commission (QLRC) was asked to make recommendations designed to unify the laws in all Australian states and territories relating to succession on death. The Uniform Succession Law Project Committee, which was established to further the work of the QLRC, presently has representatives from every jurisdiction except Western Australia.⁶ In June 1999, the Project Committee issued a discussion paper, which addressed succession law reform generally.⁷ The proposals were also considered in the Commission's 1990 report⁸ on the *Administration Act 1903*, which recommended that the reforms be adopted.

Currency of Recommendations

The recommendations remain current, but are now contingent upon the findings and proposals of the Uniform Succession Law Project Committee.

Action Required

Legislative action will be required to amend the *Administration Act 1903* (WA) in order to implement the recommendations. However, the Commission's more recent report on the *Administration Act 1903* proposed that the Act be repealed and replaced, incorporating suggested reforms.

Priority — Low

This area of law is currently the subject of discussions aimed at unifying the law in all Australian jurisdictions. Whilst the issues that the recommendations address remain, uniform law is undoubtedly preferable. In this regard, the progress of the Uniform Succession Law Project Committee should be monitored and its ultimate recommendations considered.

5 Law Reform Commission of Western Australia, *Report on Recognition of Interstate and Foreign Grants of Probate and Administration*, Project No 34(IV) (1984).

6 The Commission's Executive Officer Dr Peter Handford represented Western Australia from 1995 to 1997 until the government of the day withdrew its support for the project.

7 Queensland Law Reform Commission, *National Committee for Uniform Succession Laws: Administration of Estates of Deceased Persons*, Discussion Paper MP 37 (1999).

8 Law Reform Commission of Western Australia, *Report on the Administration Act 1903*, Project No 88 (1990).