

TRUSTEE COMPANIES (COMMONWEALTH REGULATION) AMENDMENT BILL 2010

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Michael Mischin (Parliamentary Secretary)**, read a first time.

Second Reading

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [7.36 pm]: I move —

That the bill be now read a second time.

The Trustee Companies (Commonwealth Regulation) Amendment Bill 2010 will amend the Trustee Companies Act 1987 to facilitate the regulation of trustee companies by the commonwealth. Currently, state and territory legislation authorises trustee companies to administer deceased estates, something that historically only a natural person could do. Trustee companies also provide other traditional trustee company services, such as acting as the trustee for other estates or under a power of attorney granted to the trustee company.

In 2008, the Council of Australian Governments agreed that the commonwealth would assume responsibility for the regulation of trustee companies. In October 2009, the commonwealth Parliament passed the Corporations Legislation Amendment (Financial Services Modernisation) Act 2009, which provides for commonwealth regulation of trustee companies. Under this legislation, there is a single licensing and reporting regime for trustee companies administered by a single regulator—the Australian Securities and Investments Commission. Under the new regime, trustee companies are required to have a trustee company Australian financial services licence. There will be many benefits from the single national regulatory scheme. It will eliminate the unnecessary regulatory burden on trustee companies arising from duplicate licensing and reporting requirements in each state and territory, remove barriers to entry and improve competition in the trustee company market. It will also apply the consumer protection regime for financial services from the Corporations Act to trustee companies, which will have to comply with the conduct, disclosure, advice, dispute resolution and compensation requirements of that act. This will provide better consumer protection and access to a more cost-effective and timely alternative dispute resolution mechanism.

The Trustee Companies (Commonwealth Regulation) Amendment Bill 2010 will ensure the transition to commonwealth regulation of trustee companies and ensure that Western Australia meets its obligations under the COAG agreement. The bill will amend the Trustee Companies Act 1987 so that companies will no longer be authorised to be trustee companies by being listed in a schedule to that act. Instead, the act will recognise licensed trustee companies under chapter 5D of the commonwealth's Corporations Act 2001.

The bill also repeals provisions in the Trustee Companies Act 1987 that are unnecessary or inconsistent with the commonwealth regulation regime. In particular, the bill will repeal provisions relating to the provision of accounts by trustee companies; the duties of officers and employees of trustee companies; restrictions on the ownership or control of trustee companies; the provision of company financial statements to the government; and minimum capital requirements, indemnity insurance and common funds. All these matters will be regulated by the commonwealth. The bill will, however, ensure that trustee companies remain under the overall supervision of the Supreme Court of Western Australia; that is, they will be as amenable to the Supreme Court as a natural person who is a trustee of an estate.

Finally, the house should note that the new regulatory regime does not encompass the Public Trustee. The Public Trustee continues under the Public Trustee Act 1941.

I commend the bill to the house.

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.