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NAH

Committee Secretary
House of Representatives Legal and
Constitutional Affairs Committee
PO Box 6021
Parliament House
Canberra. 2600.

Submission No..... <i>11</i>
Date Received.....

Dear Committee Secretary,

Please find attached my submission to the House of Representatives Legal and Constitutional Affairs Committee.

An Australia wide campaign has been in existence for over a year in support for tighter controls over life insurance and superannuation companies to protect the average Australian. It is indeed sad that the older one becomes, reduced income and bureaucracy can allow superannuation and life insurance companies to apply their own rules to distribution of moneys – against the *last will and testimony* of a deceased partner.

Customer service personnel within life insurance and superannuation companies also provide misleading information. Since starting this campaign, I have been informed by my own superannuation fund – that I just need to change beneficiaries in my will and not bother about the paperwork with them.

If superannuation and life insurance companies themselves provide misleading information, who protects the average Australian? Who will help a grieving 70-year-old widow/widower who has just found out that they are not entitled to the life insurance moneys that their partner had left them in a will? No one.

I can be contacted on _____ or via email on _____ if you would like to discuss any point in relation to the attached submission.

Yours sincerely,

Jannie van Wulften Palthe

SUBMISSION TO THE
LEGAL AND CONSTITUTIONAL
FRAUD COMMITTEE
OF THE
HOUSE OF REPRESENTATIVES

BY
JANNE VAN WULFFTEN PALTHE

October 15, 2006

SUMMARY

Majority of Australians believe that wills are your *final will and testimony* and that if legally binding, all money and assets will be distributed according to your wishes. This is true, with one exception – the contracts of Life Insurance and Superannuation companies which detail that beneficiaries can only be changed directly with themselves.

Surveys have shown that the average Australian is not aware of the need to change the beneficiary of policies directly with life insurance companies. Those surveyed have included professionals aged to 60 years of age and solicitors.

This issue is receiving increasing media attention. During one television interview regarding this topic <http://seven.com.au/todaytonight/story/?id=28870> a Barrister commented that individuals should work out when they are going to die and spend all their money so that such issues can be avoided. Ordinary, honest Australians need protection against the bureaucracy of Life Insurance companies.

No Federal or State government has taken responsibility for this issue.

CHANGES SOUGHT:

1. **Legislate all life insurance and superannuation companies to detail in annual statements, the named beneficiary of the policy.**
2. **Legislate all life insurance companies to detail on all annual statements the methodology through which beneficiaries can be changed.**
3. **Education campaign advising that beneficiaries of life insurance and superannuation policies can not be changed in wills**
4. **Assign legislative responsibility the implement the above three changes sought at Federal level.**

**ISSUE: FINANCIAL AND EMOTION DISTRESS OVER DISTRIBUTION
OF LIFE INSURANCE AND SUPERANNUATION AGAINST THE WISHES
OF DECEASED SPOUSE/RELATIVE**

BACKGROUND

Majority of Australians believe that wills are your *final will and testimony* and that if legally binding, all money and assets will be distributed according to your wishes. This is true, with one exception – the contracts of Life Insurance and Superannuation companies which detail that beneficiaries can only be changed directly with themselves.

In many countries around the world, the beneficiary of the life insurance or superannuation policy can be changed if detailed in a legal will.

We are part of an Australia wide campaign to help honour the wishes of deceased people as evident by legal wills.

In many circumstances, in particular those 65 years and above, incredible financial and emotional stress is suffered when after the death of a partner, it is discovered that the beneficiary of life insurances/superannuation as detailed in the will differs from that nominated in the life insurance policy.

FACT

1. In survey's undertaken of professional aged 30-65 years, only 10% have been aware that it is necessary to change a beneficiary directly with the life insurance companies and that a will can not override this.
2. In survey's undertaken with solicitors not specialising in life insurance, over 50% were not aware that wills did not override the beneficiary nominated on the policy.
3. Life insurance companies have openly stated that there is no requirement for them to confirm the beneficiary of the policy to the owner except at the time of the contract being written.
4. Personnel in life insurance/superannuation companies have provided misleading information. There are instances of customer service agents and supervisors incorrectly advising there is no need to change a beneficiary with the company – changing it in your will is sufficient. There is not even sufficient education amongst their own staff as to workings of policies.

5. The media on a regular basis is highlighting the heartache that this has caused eg. <http://seven.com.au/todaytonight/story/?id=27975>
<http://seven.com.au/todaytonight/story/?id=14858>
<http://seven.com.au/todaytonight/story/?id=27614>
<http://seven.com.au/todaytonight/story/?id=28870>
6. I believe that it is a sad reflection of our society that in the Today Tonight segment <http://seven.com.au/todaytonight/story/?id=28870> I think it is very sad that a Barrister should suggest to work out when you are going to die and spend all your money so that such issues can be avoided. Ordinary, honest Australians need protection against the bureaucracy of Life Insurance companies.
7. No Government on a Federal or State level is taking legislative responsibility as indicated by the letters attached in the appendix.

CHANGES SOUGHT:

5. **Legislate all life insurance and superannuation companies to detail in annual statements, the named beneficiary of the policy.**
6. **Legislate all life insurance companies to detail on all annual statements the methodology through which beneficiaries can be changed.**
7. **Education campaign advising that beneficiaries of life insurance and superannuation policies can not be changed in wills**
8. **Assign legislative responsibility the implement the above three changes sought at Federal level.**

WHY ACTION IS NEEDED NOW

The baby boomers are entering into retirement. This generation has experienced more divorce than any before them. There is therefore a higher chance that life insurance and superannuation policies may detail the first wife, having never had their beneficiaries reviewed from the time in which the policy commenced. This will result in a dramatic number of cases of beneficiaries of policies not being consistent with the deceased wishes or legal will.

Change is needed now.

Ordinary, honest Australians need protection. You should not need a specialisation in life insurance or superannuation law in order to ensure that your assets and policies are correctly distributed.

CAMPAIGN FOR JUSTICE

.....just one of many cases of emotional and financial distress

died on 15 February, 2005 leaving a valid will in which the Life Insurance policy was to be shared equally between his wife and his brother. **had disowned his elderly Mother in 2002**, never seeing her again. Yet because he didn't change the beneficiary directly with ING, his Mother is legally entitled to the money as she was initially detailed as this, many years before **married**. This is despite never receiving any documentation over the many years from the start of the policy specifying the named beneficiary, NOR reminders of the need to officially change this with ING as the policy can not be overridden in a will.

In a letter received from ING, they clearly state that they have no obligation to ever detail beneficiaries of policies. This is not fair.

The solicitor advised that he is constantly fighting against injustice in the plethora of cases he handles in similar situations with life insurance and also superannuation policies. For further information visit the Campaign for Justice website at <http://member.melbpc.org.au/~pless/>

The above is just one case. In another, the wife and children of a Bali bombing victim have been left almost destitute after it was discovered that the beneficiary of the life insurance policy was the deceased's previous girlfriend.

Please help the aging baby boomers ensure that the distribution of their life insurance policy is in accordance with their wishes. Please recommend legislating for mandatory detailing of beneficiaries on the annual policy statements along with the methodology for changing same. Education of the public is also required as a government initiative.