**THE POWER TO PROTECT YOUR FUTURE: Streamlining power of attorney laws**

From Johan Scheffer MLC, Chair
31 August 2010

The Victorian Parliament’s Law Reform Committee today released a report calling for simplification of laws that help Victorians to plan for their future.

“Most Victorians don’t give much thought to what will happen when they are no longer able to make decisions for themselves because of an accident or illness,’ said the Committee’s Chair, Mr Johan Scheffer MLC.

“At some stage in their life, many people will need someone else to make decisions for them about important matters such as finances, healthcare and lifestyle. Powers of attorney are one way that the law helps people plan for these situations.”

The Committee found that existing power of attorney laws are complex and confusing and that these arrangements are not as widely used as they could be.

 “Some Victorians do not know what a power of attorney is. Others may not understand the difference between the different types of documents or how to go about making one,” said Mr Scheffer. “Even when a person has made a power of attorney, there is no guarantee that an organisation such as a bank or aged care facility will accept it.”

The Committee found that while most power of attorney arrangements work well, they are sometimes used to perpetrate abuse, particularly financial abuse of older people.

“Most abuse of powers of attorney is perpetuated by a close family member. It is a real breach of trust,” stated Mr Scheffer.

The Committee’s report strikes a balance between providing better safeguards against abuse and ensuring that power of attorney documents remain easy to use.

The report makes 90 recommendations, including:

* producing simplified forms to make it easier to create powers of attorney
* clarifying the powers and duties that representatives have when acting on behalf of another under a power of attorney
* allowing people who make powers of attorney to appoint a ‘personal monitor’ to oversee the actions of their representatives
* empowering the Victorian Civil and Administrative Tribunal (VCAT) to award compensation if a power of attorney is abused
* creating criminal offences for people who abuse powers of attorney
* establishing a compulsory registration system to assist with the location, verification and validation of enduring power of attorney documents
* conducting a state-wide community education campaign to promote use and recognition of power of attorney documents.

“Victoria’s ageing population means that powers of attorney will be even more important to more people in the future,” stated Mr Scheffer. “The Committee’s recommendations will empower more Victorians to plan for their future with ease and confidence.”

The Committee conducted an extensive consultation process and Mr Scheffer thanked all those who participated in the Inquiry.

The Victorian Government has six months to table a response to the Committee’s recommendations in the Parliament.

A copy of the Committee’s report can be obtained from the Committee’s website <https://www.parliament.vic.gov.au/lawreform> or by contacting the Committee on 8682 2851.

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