

LEGISLATIVE COUNCIL

ADMINISTRATION AND PROBATE AND OTHER ACTS AMENDMENT
(SUCCESSION AND RELATED MATTERS) BILL 2016

(Amendments to be proposed in Committee by Mr Rich-Phillips)

1. Clause 16, line 27, omit "If" and insert "Subject to subsection (3), if".
2. Clause 16, page 34, line 11, omit "of—" and insert "of any person interested under the will or the estate, including any interested beneficiary; or".
3. Clause 16, page 34, lines 12 to 15, omit all words and expressions on these lines.
4. Clause 16, page 34, after line 16 insert—
 - "(3) If—
 - (a) the testator gave written informed consent under section 65B to the inclusion of a remuneration clause on which the executor or administrator seeks to rely; or
 - (b) all interested beneficiaries gave informed consent under section 65C to the fees or commission the executor or administrator proposes to receive—the Court may only make an order under subsection (1) if satisfied that, despite the matters specified in paragraph (a) or (b), as the case requires, there are exceptional circumstances justifying making the order under subsection (1)."
5. Clause 16, page 34, line 17, omit "(3)" and insert "(4)".
6. Clause 17, line 24, after "an executor" insert "or administrator".
7. Clause 17, line 27, omit "unless—" and insert "unless the testator gave written informed consent to the inclusion of the remuneration clause."
8. Clause 17, lines 28 to 33, omit all words and expressions on these lines.
9. Clause 17, page 35, after line 20 insert—
 - '(3) In this section, a reference to "executor" includes "administrator".'
10. Clause 17, page 36, line 12, after "beneficiary" insert ", subject to section 65A(3),".
11. Clause 17, page 36, line 15, omit "65A(2)(a)(i)" and insert "65A(2)(a)".
12. Clause 17, page 37, line 5, omit "An" and insert "Subject to subsection (6), an".
13. Clause 17, page 37, after line 9 insert—

"(6) An executor who has acted honestly and in good faith on behalf of an estate is entitled to the fees, commission or percentage of the assets of the estate as the Court considers fair and reasonable."

14. Clause 17, page 37, line 10, omit "(6)" and insert "(7)".

15. Clause 17, page 37, after line 11 insert—

'(8) In this section, a reference to "executor" includes "administrator".'

16. Clause 17, page 37, lines 21 to 23, omit all words and expressions on these lines.

17. Clause 17, page 37, line 24, omit "(c)" and insert "(b)".