

## Administration Bonds and Sureties

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### Terms of Reference

In 1972, the Committee was asked to consider and report on the law relating to administration bonds and sureties. This reference was part of a general reference to review the law of trusts and the administration of estates, and was adopted by the Commission upon its inception.<sup>1</sup>

### Background of Reference

The primary purpose of the reference was to examine the adequacy of statutory requirements relating to administration bonds. In Western Australia, it was necessary for an administrator to execute a bond despite the fact that a comparable state of law to that which existed when the requirement was adopted no longer existed.<sup>2</sup>

### Nature and Extent of Consultation

In June 1975, the Commission issued a working paper for distribution to parties with an interest in the administration of estates, including trustee companies, the Institute of Legal Executives, the judges of the Supreme and District Courts, and the Law Society of Western Australia. Submissions were also invited from other interested persons through an advertisement placed in *The West Australian* newspaper.

Responses to the working paper were received from a variety of sources including the Citizens Protection Bureau, the Institute of Legal Executives, the Public Trustee, the Master of the Supreme Court, and the West Australian Trustee Executor and Agency Company. The Commission delivered its final report in March 1976.<sup>3</sup>

### Recommendations

The Commission made recommendations abolishing the requirement for administrators to enter into a bond, and reducing the range of circumstances in which a surety is required to guarantee the due administration of the estate.

### Legislative or Other Action Undertaken

The *Administration Act Amendment Act 1976 (WA)* implemented the Commission's recommendations.<sup>4</sup>

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<sup>1</sup> The Law Reform Committee of Western Australia was formally reconstituted as a Commission on 19 January 1973.

<sup>2</sup> The administration bond was introduced into English law by the *Statute of Distribution 1670*.

<sup>3</sup> Law Reform Commission of Western Australia, *Administration Bonds and Sureties*, Project No 34(II) (1976).

<sup>4</sup> Western Australia, *Parliamentary Debates (Hansard)*, Legislative Assembly, 21 October 1976, 3354 (Mr IG Medcalf, Attorney-General).