

Janine Truter



Dear Madam/Sir

**Re: Submission to the VLRC review of the Forfeiture Rule**

Thank you for the opportunity to make a submission to this review. I support the current law on forfeiture, in that no one who unlawfully kills another can share in the victim's estate or receive any other financial gain from the death. However, I do believe there should be exceptions. I would like to voice my support for the exception for assisted suicide, in cases where the deceased has requested assistance (whilst not being persuaded to suicide). Although I support the general principle raised in the discussion paper that the law should be flexible to give judges the discretion to make exceptions in the interests of justice, I would like laws which are clear around assisted suicide/suicide pacts. In particular, **this should be codified** in statute so that the trauma of losing a loved one is not compounded by legal uncertainty, the cost of funding a defence based on precedent, and even the potentially random nature of judicial discretion. It should be simple and unambiguous.

Assisted suicide for the terminally ill, often phrased as a peaceful death or end of suffering, is supported by more than 75% of Victorians. For example, the [ABC Vote Compass](#), with 900 000 respondents and an effective sample size of 422,403 people, showed that 75% believed that "[t]erminally ill patients should be able to legally end their own lives with medical assistance." The law still criminalises assisted suicide, but prosecutions are vanishingly rare and sentences very lenient. This is not an argument about legalising assisted suicide, but serves to illustrate that the community – and the judiciary – not only recognize this form of assisted suicide as compassionate and as part of the course of life, medical care and dying, but also clearly does not view it as immoral or in any way comparable to murder. There is an opportunity for law on forfeiture to be amended to acknowledge that this is a different category of death to homicide or manslaughter.

I would strongly support the revision of the law to mirror that of New Zealand, as referred to in the discussion paper on page 22. It is important to recognise that "[o]ften, those who assist a suicide are close to the deceased and motivated by compassion to end their suffering. It is therefore likely that in these circumstances, rather than wishing to disinherit a beneficiary who helped them to commit suicide, a deceased person would most likely appreciate their assistance and perhaps even want to reward them." (p22) Assessment of whether this is the case, including the motivation and wishes of the deceased, still falls to the judge, but once confirmed, the issue of inheritance can be made clear.

Please do not hesitate to contact me if you have any queries or wish to discuss this further.

Regards  
Janine Truter