

CASES AND TRIBUNAL DECISIONS

Not sure who to pay? Have you considered s215 of the *Life Insurance Act 1995*?

MLC Limited v Crickitt [2017] FCA 898

[Link to decision](#)

Background

The recent case of *MLC Limited v Crickitt* [2017] FCA 898 is a timely reminder of the option available to insurers to apply under section 215 of the *Life Insurance Act* to discharge their liability under a policy of Life Insurance where there is uncertainty as to whom to pay (ie; the Estate or a beneficiary).

Section 215 allows a Life insurer to 'pay into court' any money payable in respect of a policy for which, in the insurer's opinion, no 'sufficient discharge can otherwise be obtained.'

The payment made into Court will discharge the insurer from any liability outstanding under the policy in relation to the benefit money. The money paid is then dealt with in accordance with the order of the Court.

While there are costs involved in such an application, the costs of such applications may be recovered out of the benefit funds paid into court.

The following circumstances illustrate the more common situations pursuant to which relief under section 215 has been found:

1. Where there are competing claims as to the proceeds of the policy. This is most often enlivened where there is a dispute between a nominated beneficiary under the policy and a beneficiary or beneficiaries separately identified under the deceased's will;
2. Where there is a beneficiary identified, but their entitlement to the benefit is less than 100% of

the proceeds, creating a situation where there is a percentage of the benefit without a nominated recipient;

3. Where the sole nominated beneficiary or beneficiaries have been charged with criminal conduct such as the murder of the life insured.

Decision

The application made in *MLC Limited v Crickitt* was in relation to the third situation identified above.

The Life Insured under the policy, Mrs Crickitt (the deceased), was one of two policy owners. It was determined that her sole co-beneficiary, Mr Crickitt, was ineligible to receive the death benefit as he had been convicted of her murder.

The Court also considered the question of costs. Whilst the Court was prepared to allow the insurer's costs expended in preparing the relevant application, the Court decided to reduce the insurer's costs by approximately 30%.

Implications

In reaching its cost's decision the Court openly acknowledged that applications under section 215 are 'tolerably straightforward' and incidental to the daily business of a life insurer.

In circumstances where a benefit is due and payable and no appropriate beneficiary can be identified, applications under section 215 should be readily considered by insurers.