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DEATH AND THE CENTRAL PROVIDENT FUND: LEGISLATIVE INTERVENTION

Central Provident Fund (Amendment) Act 2006, section 12

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I. INTRODUCTION

The *Central Provident Fund (Amendment) Act 2006*[1] is essentially a technical piece of legislation, fine-tuning various aspects of the operation of the Central Provident Fund ('CPF') scheme. Needless to say, legislation of this nature rarely calls for comment in an academic law review. However, section 12 of the *Central Provident Fund (Amendment) Act 2006* is of importance in the Singapore law of succession. It amends section 25 of the principal Act, the *Central Provident Fund Act,*[2] which provides for the disposition of CPF moneys on the death of a member who has not made a nomination under the CPF scheme. The new section 25 resolves a long standing problem in the law of succession,[3] but unfortunately it does so in a way which is likely to give rise to difficulties for CPF members in the future. To appreciate fully the change that has taken place, it is necessary to devote a few words to the state of the law as it stood prior to the recent amendment.

Section 25 of the *CPF Act*, which bears the marginal note "Moneys payable on death of member", provides in subsection (1) that, "Any member of the Fund may by a memorandum executed in the prescribed manner nominate a person or persons to receive in his or their own right such portions of the amount payable on his death out of the Fund … as the memorandum shall indicate."

The important point to note about the nomination scheme is that it is essentially a form of will even though it is not governed by the *Wills Act.*[4] *Jarman on Wills*[5], in a definition which was quoted with approval by the Privy Council[6], states that, "A will

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1 No. 15 of 2006.

2 Cap. 36, 2001 Rev. Ed. Sing. [*CPF Act*].

3 The present writer has discussed this matter in more detail in *Death and the Central Provident Fund* [1991] 1 M.L.J. cxiv [Crown, "Death and the CPF"] and *Death and the Central Provident Fund Revisited* [2005] Sing. J.L.S. 426 [Crown, "Death and the CPF Revisited"].

4 Cap. 352, 1996 Rev. Ed. Sing.

5 Thomas Jarman, *A Treatise on Wills*, 8th ed. (London: Sweet & Maxwell, 1986) at 26.

6 *Baird v. Baird,* [1990] 2 A.C. 548 (P.C.) at 556.

is an instrument by which a person makes a disposition of his property to take effect after his decease, and which is in its own nature ambulatory and revocable during his life." It is clear from the wording of section 25(1) that the nomination takes effect with reference to money standing to the member's credit in the CPF on the death of the member. Section 25(5) states that, "Any nomination made by a member of the Fund under subsection (1) shall be revoked by his marriage …" This points to the ambulatory nature of the document. Other forms of revocation are not expressly provided for in the *CPF Act*, but the *Central Provident Fund (Nominations) Rules*[7] provide for revocation by written notice of revocation[8] or by subsequent nomination.[9]

The procedure outlined in section 25(1) is by no means unusual. It is similar to arrangements contained in several statutes both in England and in other Commonwealth countries.[10] These nomination provisions were originally designed to give to the poorer members of society the power to make provision for the disposal of small sums at their death without the expense of making a will or taking out a grant of representation.[11]

The question arises as to how CPF moneys should be distributed where a member dies without leaving a valid nomination. Prior to the 2006 amendment, section 25(2) stated that, "If, at the time of the death of a member of the Fund, there is no person nominated under subsection (1), the total amount payable out of the Fund shall be paid to the Public Trustee for disposal in accordance with any written law for the time being in force."

The reference to "any written law for the time being in force" was somewhat cryptic, as there was no written law dealing with the distribution of CPF moneys on death other than section 25 of the *CPF Act* itself. If this provision had stood alone, however, it would probably have been interpreted as referring to the *Probate and Administration Act*,[12] in which case the moneys would be distributed in accordance with the normal rules of the law of succession. This would conform to the English practice of following the general principles of succession law in determining the devolution of sums due where there is no nomination.[13] The Public Trustee would distribute the money to the personal representative of the deceased for distribution in accordance with the member's will or the law of intestacy, where the member did not leave a valid will. Where the estate is a small one, there would be no need to obtain

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7 1998 Rev. Ed. Sing., r. 1.

8 *Ibid.,* Rule 7(c).

9 *Ibid.,* Rule 7(d).

10 See *e.g.* the schemes set up under the following U.K. Acts of Parliament: the *Post Office Savings Bank Act, 1954* (U.K.), 2 & 3 Eliz. 2., c. 62, s. 7; the *Trustee Savings Bank Act, 1954* (U.K.), 2 & 3 Eliz.II, c. 63, s. 21(3); the *Industrial and Provident Societies Act 1965* (U.K.), 1965, c. 12, ss. 23, 24; the *Friendly Societies Act 1992* (U.K.), c. 40, Sch. 9; and the *Trade Union and Labour Relations (Consolidation) Act 1992* (U.K.), c. 52, s. 17. See also the *Friendly Societies and Credit Unions Act 1982* (N.Z.), 1982/118, ss. 43, 44.

11 John G. Ross Martyn, Stuart Bridge & Mika Oldham, eds., *Theobald on Wills,* 16th ed. (London: Sweet & Maxwell, 2001) ss. 13-16. See also *Eccles Provident Industrial Co-operative Society Ltd. v. Griffiths,* [1912] A.C. 483 (H.L.), at 490.

12 Cap. 251, 2000 Rev. Ed. Sing.

13 See *Nelson v. Royal London Friendly Society* (1896), Diprose & Gammon 544. Unfortunately, the original report is not available in Singapore, but the case is noted in Lord Hailsham of St. Marylebone, ed., *Halsbury's Laws of England*, 4th ed., vol. 19(1) (London: Butterworths, 1995) at para. 266.

a grant of representation simply to distribute the CPF moneys, as small estates may be administered by the Public Trustee himself.[14]

The difficulty, however, with this simple interpretation of section 25(2) was section 24(3A) of the *CPF Act*,[15] which provided that:

> All moneys paid out of the Fund on the death of any member of the Fund shall be deemed to be impressed with a trust in favour of —
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> (a) the person or persons nominated under section 25 (1) by the deceased member, if any; or
> (b) the person or persons determined by the Public Trustee in accordance with section 25 (2) to be entitled thereto,
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> but shall, without prejudice to the operation of the Estate Duty Act (Cap. 96), be deemed not to form part of the deceased member's estate or to be subject to his debts.

The marginal note to section 24 reads "Protection of benefits",[16] and undoubtedly it was the intention of section 24(3A) to ensure that CPF moneys should not be used to pay the deceased member's debts, as indeed is expressly stated in the subsection. The words "be deemed not to form part of the deceased member's estate" were perhaps inserted out of an abundance of caution. It is submitted that the subsection should be read as if the words "for the purpose of protection of the moneys from creditors" were inserted immediately after the word "estate". Section 24(3A) is poorly drafted, but presumably what was intended was an arrangement similar to that established in rather clearer language in section 48(1) of the New Zealand *Friendly Societies and Credit Unions Act 1982,*[17] which provides as follows:

> No money paid or payable by a registered friendly society or a registered branch of any such society to a member, or on the death of a member, shall be assets in the bankruptcy of that member, or pass to the trustee or assignee in that bankruptcy, or be seized, attached, or otherwise taken in execution under the process of any Court, or pass under a general assignment of the member's property; nor shall any such money, unless otherwise expressly and specifically directed by the will of the member, become available for the payment of his debts or liabilities on his death.

The Singapore courts have, however, sought to give a literal interpretation to the phrase "be deemed not to form part of the deceased member's estate" and this has

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[14] Where the gross capital value is less than $5,000, the estate may be administered by the Public Trustee under s. 6 of the *Public Trustee Act* (Cap. 260, 1985 Rev. Ed. Sing.), and where the gross capital value does not exceed $50,000 without deduction for debts, it can be administered by the Public Trustee under s. 62 of the *Probate and Administration Act*.

[15] The words "Subject to section 16A" were inserted at the beginning of s. 24(3A) by s. 11 of the *Central Provident Fund (Amendment) Act 2006*. S. 16A grants a power to withdraw money from a deceased member's Medisave account for the payment of medical expenses. The amendment is not therefore of any significance in the context of the present discussion.

[16] There is authority for the view that in Singapore, unlike the position in England, marginal notes may be used as an aid to interpretation of the statute; see *Cashin* v. *Murray* (1888), 4 Ky. 435 and *Re Tan Keng Tin,* [1932] M.L.J. 134.

[17] *Supra* note 10.

given rise to difficulties. In *Saniah bte Ali v. Abdullah bin Ali*,[18] Saleh bin Ali died intestate as a result of a road traffic accident. He had nominated one of his stepsisters, Saniah bte Ali, as the sole nominee in relation to his CPF account and accordingly the CPF Board paid her in full the amount in the deceased's account not long after his death. Some time later the deceased's brother, Abdullah bin Ali, obtained from the Syariah Court an inheritance certificate declaring that he was entitled to the entire estate of the deceased. The deceased had $60,607.71 in his CPF account at the time of his death, but the total value of his estate, excluding the CPF moneys, came to only $8,038.76.

Thean J. held that the moneys payable out of the Fund on the death of a member are specifically excluded by the *CPF Act* from the estate of the deceased and therefore are not subject to the *Administration of Muslim Law Act.*[19] The result of this case was that the bulk of the property of the deceased was not distributed in accordance with Islamic law. This was in spite of the fact that the *Administration of Muslim Law Act* requires that the estates of Muslims domiciled in Singapore dying intestate should be distributed in accordance with Islamic law[20] and that no Muslim domiciled in Singapore can dispose of more than one third of his property by will.[21]

II. The New Legislation

Saniah bte Ali was concerned with the legal effect of a nomination, but the finding that the moneys in the deceased's CPF account did not form part of the estate formed the *ratio decidendi* of the case. It is therefore of relevance to cases where no nomination is made. If the moneys in the account do not form part of the estate, how can the executor or administrator have any title to them? If they are not part of the estate, how can either the will or the *Intestate Succession Act*[22] apply? In the absence of any written law dealing specifically with the disposal of moneys from a deceased member's CPF account, as required by section 25(2), one could argue that the moneys are ownerless and therefore pass to the state as *bona vacantia*. This is clearly an absurd conclusion, which goes against the whole scheme of the CPF. There is no obligation to make a nomination. Failure to do so may be administratively inconvenient, but it hardly merits forfeiture! Indeed, it is clear that the statute contemplates no such thing. There would be no point in directing the CPF Board to pay the moneys to the Public Trustee rather than to the Consolidated Fund, if it were not intended that he should hold them on trust for some individual.

As a response to the decision in *Saniah bte Ali*, the Public Trustee adopted the practice of distributing CPF moneys in accordance with the *Intestate Succession Act*, even where the deceased had left a will. It appears that previously, the practice of the Public Trustee in such a case had been to pay the CPF moneys to the executor.[23]

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18 [1990] 3 M.L.J. 135 (H.C.) [*Saniah bte Ali*], discussed in detail in Crown, "Death and the CPF", *supra* note 3, where the correctness of the decision is doubted.

19 Cap. 3, 1999 Rev. Ed. Sing.

20 *Ibid*., s. 112(1).

21 See *ibid*., s. 111(1). See also David Pearl, *A Textbook on Muslim Law* (London: Croom Helm, 1979) at 114-157. For a more detailed discussion, see N.J. Coulson, *Succession in the Muslim Family* (Cambridge: Cambridge University Press, 1971).

22 Cap. 146, 1985 Rev. Ed. Sing.

23 See, Crown, "Death and the CPF", *supra* note 3 at cxix.

The reason for the new practice is spelt out clearly by Lee Cheow Han, the Assistant Public Trustee, in a letter published in *The Straits Times*, where he wrote:

> On [the member's] death, CPF moneys do not form part of his estate … In 1990, the High Court ruled that for these reasons, CPF savings could only be disposed of by a specific nomination, as provided by the Act, and not by will or any other instrument. The CPF Act also provides that if there has been no nomination by the member, his CPF moneys shall be paid to the Public Trustee for distribution in accordance with the law, which must mean the Intestate Succession Act which governs the distribution of property not subject to a will.[24]

This practice was endorsed by the Court of Appeal in *obiter dicta* in *Chai Choon Yong v. Central Provident Fund Board.*[25] Nevertheless, it was difficult to find a legal basis for the practice adopted by the Public Trustee. If one takes literally the words of section 24(3A) that CPF moneys are "deemed not to form part of the deceased member's estate", then there was no basis for distributing them in accordance with the *Intestate Succession Act*. After all, as the long title to the *Intestate Succession Act* expressly states, it is an "Act to make provision for the distribution of intestate *estates*".[26] The rules for distribution are set out in section 7 of the *Intestate Succession Act*. Every single one of these rules refers expressly to the division of the *estate* of the deceased. It was totally inconsistent to say on the one hand that CPF moneys do not form part of the estate of the deceased, but on the other hand that the *Intestate Succession Act* applies to the distribution of such moneys.

No doubt alive to these legal difficulties, the Court of Appeal recommended amending legislation to place the practice adopted by the Public Trustee on a firm legal footing.[27] Section 12 of the *Central Provident Fund (Amendment) Act 2006* is a clear legislative response to this call. It substitutes the following for the previous version of section 25(2) of the *CPF Act:*

> (2) Where, at the time of the death of a member of the Fund, no person has been nominated by him under subsection (1), the total amount payable on his death out of the Fund shall be paid to the Public Trustee for disposal in accordance with—
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> (a) the Intestate Succession Act (Cap. 146), if the member is not a Muslim at the time of his death; or
> (b) section 112 of the Administration of Muslim Law Act (Cap. 3), if the member is a Muslim at the time of his death.

The advantage of the new section 25(2) is that it cuts through all the difficulties discussed above. There is now a firm legal basis for the procedure of distributing CPF moneys in accordance with the *Intestate Succession Act* in the absence of a valid nomination. One would be tempted to praise the legislature for its alacrity in responding to the call for new legislation by the Court of Appeal, were it not for the fact that the deficiencies of the previous version of section 25(2) have been known in

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[24] Lee Cheow Han, Letter to the Editor, *The Straits Times* (6 May 2000).

[25] [2005] 2 S.L.R. 594 (C.A.) [*Chai Choon Yong*], discussed in detail in Crown, "Death and the CPF Revisited", *supra* note 3.

[26] [Emphasis added].

[27] See *Chai Choon Yong*, *supra* note 25 at 605, per Lai Siu Chiu J.

the legal community for many years.[28] The legislature chose to endorse the practice of the Public Trustee, but this practice was not based on any study of the needs of CPF members; rather the Public Trustee felt it necessary because of the construction that *Saniah bte Ali* had placed on section 24(3A). In the context of amending legislation, it would have been possible to cut the Gordian knot and to adopt a solution that would best meet the requirements of CPF members. It is most unfortunate that this was not done.

III. Difficulties Raised by the New Legislation

The practice of distributing CPF moneys as on an intestacy, even where the member left a will, is a strange one, as it means ignoring the express wishes of the deceased in favour of the list of beneficiaries contained in the *Intestate Succession Act*. The facts of *Chai Choon Yong* illustrate this very clearly. Ms Wang Lee Jun was an unmarried woman, who appointed Mr Lai Weng Kwong, with whom she had lived for many years before her death, as executor of her will and sole beneficiary of her estate. She also nominated Mr Lai to receive all the moneys in her CPF account. After her death, Ms Wang's mother filed an originating summons to challenge the validity of the nomination under the *CPF Act* on the grounds that the nomination was null and void because Ms Wang's signature had not been properly witnessed. The plaintiff argued that since the nomination was invalid, the money should be paid to the Public Trustee for disposal in accordance with the *Intestate Succession Act*, under which she would be entitled to a share of the money. Mr Lai sought to uphold the validity of the nomination, but argued further that even if the nomination were invalid, the money was payable to him pursuant to Ms Wang's will. The Court of Appeal held that the nomination made by Ms Wang was valid on the facts. In the circumstances, its discussion of what should be done with CPF moneys when the member had not made a valid nomination was *obiter*. The deceased wanted her partner to be the sole beneficiary of her estate, including her CPF moneys. She executed a will and a nomination form to secure this goal, but had her nomination been held invalid for some technicality, under the new law her CPF funds would instead have gone to relatives she wanted to exclude from benefiting on her death and not in accordance with her wishes as manifested in her will.

It is tempting to say that difficulties of the type described above can be avoided by the simple expedient of making a valid nomination under the *CPF Act*—something which is, in fact, considerably easier to do than making a valid will. Unfortunately, however, even if a member has made a valid nomination, difficulties can still occur. A CPF nomination is a very simple form of will designed to be used by members without legal advice. It does not therefore allow for the sophisticated devices that are possible in wills made under the *Wills Act*. Sometimes, however, such sophistications are necessary. For example, Jack intends to marry Jill, who is several years younger than him. Jill's parents are opposed to the union and refuse to attend the wedding. Prior to the wedding, Jack makes a will leaving his entire estate to Jill should she survive him by thirty days. If she does not so survive him, Jack's estate is to go to

[28] Indeed, the present writer called for amendment of the *CPF Act* to deal with the problems discussed here some 16 years ago. See Crown, "Death and the CPF", *supra* note 3 at cxx.

his mother. The will is expressed to be made in contemplation of his marriage to Jill. Jack also makes a CPF nomination in favour of his mother. Jill has not made a will. Jack and Jill get married and drive directly from the wedding reception to Changi Airport for their honeymoon. Unfortunately, they are both killed in a plane crash.

If it is not possible to discover who died first, it has to be assumed under section 30 of the *Civil Law Act*[29] that Jack predeceased Jill, as she is the younger. Jack's estate will pass to his mother, as Jill did not survive him by the requisite period of thirty days. However, Jack's CPF nomination has been revoked by his marriage. Since Jill is deemed to survive Jack, under the new legislation the CPF moneys would pass to her under the *Intestate Succession Act* and on her death would form part of her estate. Since Jill died intestate, her estate is distributed in accordance with rule 5 of section 7 of the *Intestate Succession Act* and passes to her parents. The result is that Jill's parents, who opposed the marriage and refused to attend the wedding, would get Jack's CPF moneys to the exclusion of his own mother. In contrast to the position under section 13(2) of the *Wills Act*, it is not possible to avoid automatic revocation by making a CPF nomination in contemplation of marriage. It would appear, therefore, that the only way to avoid this result would be for Jack to make a new CPF nomination before witnesses immediately after his wedding and to post it to the CPF Board before boarding the plane at Changi!

This example also suggests a related problem. What happens where the nominee predeceases the CPF member? Ideally the member should make a fresh nomination in such a case, but this will not be possible if the member is incapacitated or is unaware of the death of the nominee. If the member does not manage to execute a new nomination before his own death, there will be no valid nomination and the result will be that his CPF funds will be distributed in accordance with the *Intestate Succession Act*. It is common practice in wills to avoid this problem by providing for substitutional gifts, as was indeed done in the example above where Jack provided that his estate should go to his mother if Jill did not survive him by thirty days. Although there is nothing in the *CPF Act* to expressly prohibit nominations like this, the design of the nomination form made under the *Central Provident Fund (Nomination) Rules* clearly does not contemplate such an arrangement. The aim of the nomination scheme is simplicity, and it would not therefore appear possible to make substitutional nominations. Indeed, it would not even be desirable, as it would complicate the task of the CPF Board in distributing funds to nominees on the death of members.

The ability to make a nomination on trust could be useful where the intended nominee is a minor. If the minor is named directly as a nominee, the Public Trustee will administer the funds until he or she reaches the age of 18.[30] However, the Public Trustee charges for this service. The fees could be avoided if it were possible to appoint a family member as trustee, but it is doubtful whether it is possible to make a nomination on trust. The nomination form would not appear to contemplate trust arrangements, but presumably one could name the trustee as a nominee and declare the trust in a separate document. A difficulty, however, is that a trust is a private matter and it might not necessarily come to light on the death of the CPF member, if the trustee sought to keep the moneys for himself. This is not a problem where

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[29] Cap. 43, 1999 Rev. Ed. Sing.

[30] *CPF Act*, *supra* note 2, s. 25(3).

the trust is declared in a will, which becomes a public document on the grant of probate. Another problem would be where the trustee predeceases the CPF member. The nomination would fail and under the new legislation the moneys would be distributed in accordance with the *Intestate Succession Act*. In theory, this problem could be avoided by naming a trust company as the nominee, but there would be little benefit in doing that, as the trust company would also levy a charge for its services in administering the trust.

In any case, it is unclear whether it is possible to name a company as a nominee. There is nothing in the *CPF Act* to say that only an individual can be a nominee, although that is clearly the only possibility contemplated by the nomination form. It is not clear how the CPF Board would react to the receipt of such a nomination. There is nothing in the *CPF Act* which would appear to give the Board any discretion in the matter, but in practice, as shown by the facts of *Chai Choon Yong*, the Board has taken upon itself what might perhaps be characterised as a form of supervisory jurisdiction in relation to nominations. It will be recalled that Ms Wang Lee Jun was a single woman who made a nomination in favour of her partner, Mr Lai Weng Kwong. The nomination form contains a column marked "Relationship to member" in which Wang described Lai as a "friend". Upon receiving the nomination form, the CPF Board sent Wang a letter asking if she would like to include her next-of-kin as nominees. Wang replied to confirm that Lai was her choice of nominee. It seems that the Board was still not satisfied because the officer handling the file then contacted Wang to explain to her the implications of her nomination. The officer subsequently noted that he had the impression that Wang understood the effect of her decision.

Another problem arising out of the new legislation is that it can lead to unnecessary costs. The Public Trustee has to find out who are the beneficiaries entitled under the *Intestate Succession Act*. He charges a fee for this service, as costs may well be incurred in finding the beneficiaries and working out their entitlements. Where a personal representative has been appointed, these expenses could be avoided, if the CPF moneys were paid directly to him.[31] As pointed out above, a similar difficulty occurs where a nomination is made in favour of a person under the age of 18. The Public Trustee will administer the funds until the beneficiary reaches this age. The fees charged by the Public Trustee in this case could be avoided if the CPF moneys could be disposed of by will in favour of a private trustee for the minor. Indeed, if there is a will which creates a trust in favour of the minor together with a CPF nomination in favour of the same minor, that will give rise to two trusts for the same person – one administered by the private trustee and the other by the Public Trustee – a most unfortunate duplication, which simply gives rise to unnecessary costs.

IV. Muslim CPF Members

Where a Muslim CPF member dies without having made a nomination, the new section 25(2)(b) provides that his or her CPF moneys should be distributed in accordance with section 112 of the *Administration of Muslim Law Act*.[32] This section provides

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[31] See M. Jayakumar, Letter to the Editor, *The Straits Times* (22 April 2000), and the reply by the Assistant Public Trustee; Lee Cheow Hon, Letter to the Editor, *The Straits Times* (6 May 2000).

[32] Cap. 3, 1999 Rev. Ed. Sing.

in subsection (1) that, "In the case of any Muslim person domiciled in Singapore dying intestate, the estate and effects shall be distributed according to the Muslim law as modified, where applicable, by Malay custom."

Section 25(2)(b) is obviously necessary given that on an intestacy the estates of Muslims are governed by Islamic law rather than the *Intestate Succession Act*. However, this provision only serves to draw attention to the anomalous nature of the decision in *Saniah bte Ali*. It will be recalled that according to this case, Muslims can make a nomination contrary to the rules of the Islamic law of succession which would otherwise apply to them under the *Administration of Muslim Law Act*. The reason for this is because CPF moneys do not form part of the estate of the deceased. On the other hand, section 25(2)(b) of the *CPF Act* now says that where a Muslim does not make a nomination, his CPF moneys are to be distributed on his death in accordance with Islamic law because in such a case CPF moneys are to be dealt with as if they were part of the estate of a deceased who died intestate. It is difficult to see any logic in this arrangement. Parliament expressed its view in the *Administration of Muslim Law Act* that the estates of Muslims in Singapore should be handled in accordance with Islamic law. Section 25(2)(b) restates that legislative policy in the *CPF Act* itself. To bring consistency to this matter, legislation should be introduced to overrule *Saniah bte Ali.*

V. Conclusion

The arrangements for the disposition of CPF moneys on death set out in the *CPF Act*, as amended by the 2006 legislation, undoubtedly suit the great majority of members. Many will be happy to allow the money in their accounts to be distributed in accordance with the *Intestate Succession Act*. For others, the nomination procedure is a simple and effective means for determining what should happen to their CPF money on their death. The problem with the *CPF Act* as it now stands is that the legislature has adopted a 'one size fits all' approach. As shown by the examples considered above, this is capable of resulting in injustice in many cases. The great advantage of the current arrangements is simplicity. CPF members can dispose of the money in their accounts by filling in a simple form and without the need to draw up a will. From the point of view of the family members of the deceased, the advantage is that they will be given the CPF moneys without having to go to the trouble and expense of obtaining a grant of probate or letters of administration. It is, however, quite easy to reform the law, so as to cater for that minority who are adversely affected by the current arrangements, while preserving these benefits.

What is proposed is that CPF members should be allowed full freedom of testamentary disposition, as is the practice in other jurisdictions which also have nomination schemes. The existing nomination scheme should be retained, but the *CPF Act* should be amended to require the CPF Board to pay CPF moneys to the personal representative of the deceased where there is no valid nomination. The personal representative would be required to pay out the CPF moneys in accordance with the deceased's will or the law of intestacy where the deceased did not leave a valid will, but the legislation should expressly bar the personal representative from using these

moneys to pay the debts of the deceased.[33] In the case of small estates, it would be inappropriate to compel family members to obtain a grant of representation just so as to be able to receive the CPF moneys of the deceased. The *CPF Act* should therefore be amended to provide that where there is no nomination and no grant of representation has been taken out, the moneys should be passed to the Public Trustee, who should be given a broad power to distribute the moneys himself. A possible model for such an arrangement can be found in section 68(1) of the U.K. *Friendly Societies Act 1974,*[34] which provides as follows:

> If any member of a registered society … dies without having made any nomination thereof then subsisting, the society … may, without letters of administration or probate of any will … distribute the sum among such persons as appear to the committee, upon such evidence as they may deem satisfactory, to be entitled by law to receive that sum.

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[33] S. 24(3)(A) of the *CPF Act* should be amended along the lines of s. 48(1) of the New Zealand *Friendly Societies and Credit Unions Act 1982*; see *supra* note 17 and accompanying text.

[34] (U.K.), 1974, c. 46. This section is derived from the *Friendly Societies Act, 1896* (U.K.), 59 & 60 Vict., c. 25, s. 58. Unless s. 24(3A) of the *CPF Act* is amended, it would be possible to rely on the existing provisions for small estates (see *supra* note 14), as the CPF moneys would not be included in the computation of the value of the estate. Nevertheless, for the avoidance of doubt it would be better to have a clear statutory provision along the lines of s. 68(1) of the U.K. *Friendly Societies Act 1974.*