



12 February, 2021

PRIVATE MEMBERS' MOTION

The Hon Elliott Phillips MP has given notice on 11th February 2021 that he proposes to move the following motion at the next meeting of Parliament:

“THIS HOUSE:

NOTES that the statutory requirements for the making of and witnessing of a valid will under Section 9 of the Wills Act 2009 provides *inter alia* that:

- (i) a will must be signed by the person making it in the *presence* of two or more witnesses present at the same time; and
- (ii) each witness must sign the will in the *presence* of the testator.

NOTES that the statutory requirement of *presence* provides that the witness must have a '*clear line of sight*' of the will maker signing and therefore the current law does not provide for the will to be witnessed via video conference or other remote means.

NOTES that in the context of the current Covid 19 pandemic that people desirous of making wills and putting their affairs in order, may not be able to comply with the statutory provisions because they maybe shielding, self-isolating or otherwise exercising a degree of social distancing.

NOTES the United Kingdom Parliament and the legislatures of other British Overseas Territories have amended their statutory requirements in a temporary and limited way in order to provide for the witnesses of wills via video-conference or other visual transmission given the Covid 19 pandemic to allow for those who may be shielding, self-isolating or otherwise exercising a degree of social distancing.

AND CALLS on the Government to either: (1) introduce legislation in the form of a Bill to amend the Section 9 of the Wills Act 2009 in a temporary and limited way, namely to provide the following new sub-section 2:

"For the purposes of paragraphs (c) and (d) of subsection (1), in relation to wills made on or after 4 March 2020 and on or before 4 March 2022, "presence" includes presence by means of videoconference or other visual transmission"

Or alternatively (2) introduce provision via civil contingency legislation or other available statutory mechanism.

Paul E Martinez
Clerk to the Parliament