

THE LEGAL EDGE

Current developments in the law which may affect you or your business

The Basic Estate Package: What Your Clients Need and Why

We're often surprised how many successful people don't have a Will or Powers of Attorney over Property and Personal Care. As a financial professional, you may encounter the same "inertia" from clients when dealing with these important documents. In the following paragraphs we outline what we consider to be the basic estate package.

The Will is the document that takes legal effect upon death. The basic functions of a Will are:

- a) to appoint an executor of your estate. This is the person who steps into your shoes and looks after your affairs pending realization and distribution of the assets of your estate to your beneficiaries;
- b) to appoint a guardian to look after your minor children; and
- c) to set out who you wish to inherit your property.

Without a Will you run the risk of no one coming forward to act as your executor or guardian, or multiple persons coming forward with a resulting court fight over who will ultimately be appointed at the expense of your estate. In addition, your property will be distributed according to the "intestacy rules" of the Succession Law Reform Act. These rules may

have no relation whatsoever with how and to whom you would like your property to be distributed. In addition, if you do not have living relatives as specified by the Rules, your estate will escheat to the Crown.

You should also have Powers of Attorney over property and personal care. The Power of Attorney over property gives someone the authority to deal with your financial affairs if you are unable to do so but are still alive. Without this document, someone may have to apply to court to obtain this authority. As with all court applications, this can be a costly process. The Power of Attorney over personal care gives someone authority to instruct medical professions as to the medical treatment you wish to be subject to if you are unable to make these decisions yourself, and to make personal care decisions on your behalf (such as housing and nursing care decisions).

Depending on your circumstances, other estate planning documents might be beneficial such as a family trust to reduce your income tax burden, or a marriage contract to protect your assets in the event of a marriage breakdown. However, everyone should have a Will and Powers of Attorney.

For free self-help guides on estate planning, visit our website: www.virtual-law.com

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