

Update: 10 January 2007 Special Disability Trust - A \$500,000 relief



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Summary

Families may now make private financial provision through a special disability trust ("SDT") for a family member with severe disabilities.

The severely disabled person's pension is not affected by any trust income, or trust assets up to the value of \$500,000.

What's changed?

Until now, parents have had difficulty providing financially for their disabled children without affecting the child's pension. This was a frustration for ageing parent carers concerned about what would happen when they were unable to care for their child.

On 20 September 2006 the Commonwealth Government amended the law to establish exceptions to the ordinary means tests that apply to a trust for a person with severe disabilities.

For the exceptions to apply the trust must:

- Strictly comply with the Act; and
- Be established for the sole purpose of providing care and accommodation for a person with a severe disability.

What are the benefits?

The new provisions relax the provisions that limit the assets a person can hold or give away without those assets affecting their entitlement to social security payments and benefits.

Assets up to \$500,000 are disregarded for the assets test and income from the trust is not counted.

SDT's may be established by deed at any time or by a will specifying the terms of the model trust deed.

What are the problems?

The establishment of a SDT is not appropriate for all disabled persons, and care should be taken to ensure that the requirements of the Act are met. The circumstances of the disabled person need to be considered carefully by the disabled person's solicitor, with the assistance and advice of his or her accountant or financial planner.

The rules are restrictive, but intended to prevent people from using the trust for a purpose other than supporting the disabled person.

How can Fleming Muntz help?

Would you like to provide financially for a disabled person without affecting their pension entitlements? Contact us and we can assist you.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to fmlaw@flemingmuntz.com.au.

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