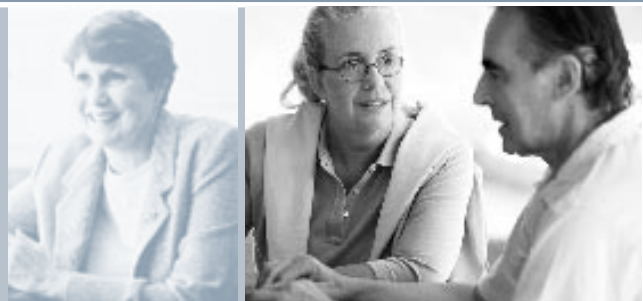


# A PLAIN ENGLISH GUIDE TO



## >>SPECIAL DISABILITY TRUSTS

### >>What is a special disability trust?

The Federal Government introduced Special Disability Trusts into social security legislation in 2006, aiming to encourage private provision of accommodation and care for people with a disability. In the right circumstances, using a Special Disability Trust allows parents (and other family members) to provide assets for a person with a severe disability without affecting the person's entitlement to the disability support pension.

### >>Rules for Special Disability Trusts

The trust can only pay for care and accommodation, not other expenses.

A person with a severe disability can have \$500,000 plus a house held in trust before the assets test applies to his or her social security entitlements, and income test does not apply at all to income of a special disability trust.

Family members providing assets to such a trust up to \$500,000 may receive an exemption from the usual gifting rules and therefore may improve their social security position.

### >>When will a Special Disability Trust be useful?

Very broadly:

- for parents who would leave significantly more than \$500,000 for their son or daughter with a disability, a Trust may play some role;
- for parents who would leave less than the assets test limits (approx less than \$240,000) for their son or daughter with a disability, a Trust will probably not have major advantages; and

- for parents who fall in between these two groups, and whose son or daughter relies on the disability support pension, and who need to provide for care and accommodation, then a special Disability Trust may help a lot.

### >>What do I need to do to set up a Special Disability Trust?

A Trust can be set up while parents are alive or in their wills

The legislation requires that the Trust is set up by a trust deed or will, using a Model Special Disability Trust (prescribed by social security rules), or something very similar.

Considering setting up a Special Disability Trust is only part of broader estate planning to provide fully for the future of a person with a disability, and parents should obtain specialist legal advice, and maybe accounting or financial planning advice as well, before deciding whether a Trust is suitable in their individual situation.

For further information, contact:

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Stephen is a partner at Coleman & Greig and has been involved with intellectual disability issues since 1984. He has advised many parents on wills, and has written extensively on wills providing for people with intellectual disabilities, including *When I'm Gone* (Intellectual Disability Rights Service), co-authoring *Special Disability Trusts: Getting Things Sorted* and *Planning for the Future* (both Dept of Families and Community Services and Indigenous Affairs) and several publications for lawyers on this subject.



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Reprinted May 2008



### **For further information:**