



**Hutchinson
Legal**

Road
Safety

Special
Disability Trust

Staff
Spotlight

SUMMER 2023

Insight



To all of our clients, new and old, and their families, the team at Hutchinson Legal wish you a Happy Christmas and thank you for your ongoing support during 2023. We hope you enjoy this edition of our newsletter.

Summer Safety

Staying on the Right Side of the Law

During the summer months, some of the most common offences and legal issues tend to revolve around activities and behaviours that are more prevalent in warm weather.

It is important to remember that laws and regulations can vary between states and territories in Australia, so individuals should be aware of the specific rules and regulations that apply to their location.



“Rest is not idleness, and to lie sometimes on the grass under trees on a summer's day, listening to the murmur of the water, or watching the clouds float across the sky, is by no means a waste of time.”

JOHN LUBBOCK

FAST FACTS

2hrs

The African elephant holds the record for sleeping the least of any mammal in a day.

500 tonnes

An average cumulus cloud (fluffy white cloud) weight – the same as a jumbo jet.

500,000

The number of BBQs sold in Australia each year.

Driving Offences and Traffic Violations

The surge in holiday travel and the popularity of road trips, combined with the festive atmosphere, and sometimes adverse weather conditions, can all contribute to a disregard for traffic laws and safety precautions. The appeal of reaching one's destination more quickly may lead some individuals to exceed speed limits or make careless driving choices.

The *Road Safety Act 1986* (Vic) regulates Driving Offences and the most common of these are:

- racing, going too fast, or driving aggressively;
- ignoring traffic lights and other road signs; and
- overtaking dangerously.

Drinking and Driving Offences

The Festive Season can also lead to an increase in driving under the influence of drink or drugs, including prescription drugs.

A person is found guilty of an offence if he or she drives a motor vehicle or is in charge of a motor vehicle while under the influence of intoxicating liquor or of any drug to such an extent as to be incapable of having proper control of the motor vehicle: S.49 (1) (a), *Road Safety Act 1986* (Vic).

You can read the full article on our website at <https://www.hutchinsonlegal.com.au/resources/summer-safety/>

If you would like to discuss any of these issues, the Litigation team will be happy to assist on 9870 9870.



Staff Spotlight

In this edition, we feature Angela Gibson a Conveyancing Clerk from the Property and Commercial Team. She shares her insights on her career and how she supports her clients.

"My journey in the legal field began as a receptionist and progressed to the role of personal secretary to a managing partner in a prominent Melbourne city law firm. I also gained experience in Melbourne's Eastern suburbs and worked at a conveyancing company. For 24 years I lived in Hawaii and Arizona and worked with solicitors specialising in Wills and Estates.

In my current role, I guide clients through property transactions, managing paperwork with a sharp focus on numbers and deadlines.

Building trust with my clients is paramount. I maintain a friendly and approachable demeanour, reassuring clients that no question is too trivial, explaining complex conveyancing and settlement processes in plain language, and always making myself available to assist.

My advice for those seeking conveyancing services is to obtain assistance before making property offers or bidding at auctions. Timely advice is crucial upon receiving the contract from the real estate agent.

At Hutchinson Legal, our Property Team is renowned for their knowledge and experience in property matters, handling even the most complex cases. Our dedication to going above and beyond for our clients sets us apart, always treating them with respect and professionalism.

Outside of work, I have a passion for travelling and enjoy swimming and basketball. However, my greatest joy comes from spending quality time with my family and my beloved furry friends, including my cats and horse."

What is a Special Disability Trust?

As the name suggests, it is a trust created for the benefit of someone who is suffering with a severe disability.

A Special Disability Trust is a popular tool used by Estate Planners for clients who are parents or immediate family members of a person with a severe disability or medical condition. The Special Disability Trust pays for the current and future care, accommodation, medical costs and other needs of the principal beneficiary during his or her lifetime.

A Special Disability Trust can be established by a person either during his or her lifetime (inter-vivos) or through a Will (after death).

Benefits

NO ASSETS TEST

One of the main benefits of establishing a Special Disability Trust is that it can help preserve the Disability Support Pension entitlements and associated benefits that a principal beneficiary receives.

Assets held in a Special Disability Trust up to the concessional asset value limit (\$781,250 as at 1 July 2023) are exempt from the usual assets test for the pension entitlements of a principal beneficiary. Also, no income from a Special Disability Trust is taken into account under the principal beneficiary's income test.

For the immediate family members of the principal beneficiary who are in receipt of a pension – whether age pension or service pension, there is a

gifting concession available where gifts up to a combined amount of \$500,000 (unindexed) can be made to a Special Disability Trust without pensions being penalised under the gifting rules. A Special Disability Trust must exist before the gift is made.

NO CAPITAL GAINS TAX

A further significant benefit of a Special Disability Trust is that any capital gain or loss, from a capital gains tax (CGT) event that happens when an asset is transferred for no consideration to a Special Disability Trust, is disregarded. The value of the CGT exemption is uncapped.

Further, in a subsequent sale of the asset by the Trustee, the cost base of the property in the hands of the Trustee is deemed to be the market value of the property when the Special Disability Trust acquires it.

INCOME TAX BENEFITS

For income tax purposes, all income generated in the Special Disability Trust, including unexpended income; is taxed at the principal beneficiary's marginal rate, rather than the highest marginal rate.

You can read the full article on our website at <https://www.hutchinsonlegal.com.au/resources/special-disability-trust/>

We recommend that you obtain financial or legal advice before establishing a Special Disability Trust. Please telephone our Estate Planning Team on 9870 9870 if we can be of any assistance in this regard.



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