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THE SUCCESSION ACT BECOMES LAW

The Succession Act 2006 (NSW) was gazetted and commenced on 1 March 2008. The Succession Act will bring fundamental reform to the process of making Wills in New South Wales in relation to some areas and for some people. One of the major changes is in relation to Court authorised Wills for people lacking testamentary capacity.

It is fair to say that the overall policy thrust of the legislation is to give effect, wherever possible, to the testator's intentions and give less emphasis to formal matters relating to how the Will is signed. This is reflected in the changes relating to Court authorized Wills. The idea is that a Court would be able to order a Will be made for people, such as minors and adults suffering lack of testamentary capacity due to disabilities resulting from matters including:-

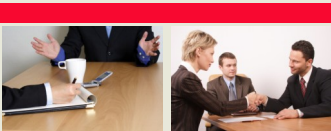
- A developmental disorder.
- A mental illness.
- A disease, including disease relating to old age.
- An accident.
- To those people who are capable of making a Will, but due to severe physical disability are unable to communicate.



The premise of the scheme is to help out persons lacking testamentary capacity, (i.e. the ability to rationally consider the contents of their own Will), where:-

- The person makes a valid Will and subsequently loses his or her testamentary capacity.
- A person has never made a Will and loses capacity.
- A person never has capacity and therefore cannot make a Will.

If you have any queries about an existing Will, or wish to make a Will, please contact one of our experienced estate planning lawyers on 1300 727 813.



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