

● Special Care Trusts

Providing for those with special needs

● Special Care Beneficiary Trusts

When the Willmaker is concerned that their child, for any reason, is unable to manage their affairs themselves they can give the power to the executor to set up special trusts.

This may be due to a mental or physical disability (including addiction) or simply because the Willmaker believes a trust would be a more sensible option for that child (or any beneficiaries for whom they wish to provide.)

Where the person has a severe disability, a family member can set up a Special Disability Trust for their future care and accommodation needs. The income earned from the asset in the trust is exempt from means testing (up to a prescribed level) by Centrelink.

However if the beneficiary would not qualify as severely disabled under the Centrelink guidelines or the Willmaker also wants to provide for their lifestyle needs or for their care and accommodation needs beyond that provided for by Centrelink, they should consider also giving the executor the ability to set up a Special Care Lifestyle Trust if that is more appropriate at the time.



Below is information on the two different types of Special Care Beneficiary Trusts we can include in your Comprehensive Will.

● Special Disability Trust

A Special Disability Trust is used to provide for the care and accommodation (but not other needs) of a child or other relative with a severe disability.

An Irongroup Lawyers Comprehensive Will can provide the executor with the power to set up one of these trusts after death.

A Special Disability Trust can have assets worth up to \$578,500 (indexed annually and current as at 1 July 2011) without these assets impacting on the trust beneficiary's income support payment (such as Disability Support Pension).

This means the Willmaker can provide for the appropriate sum of money to be distributed to this trust after death, in order to help provide for someone with a disability.

Before the executor can set up this trust, the prospective trust beneficiary must be assessed as severely disabled under the relevant legislation for it to be effective.

If this is chosen, two trustees need to be appointed to manage the trust.

● Special Care Lifestyle Trust

As the Special Disability Trust may be too restrictive at the time or simply not be appropriate [eg where the beneficiary does not qualify as one with a severe disability under the Centrelink guidelines], a Special Care Lifestyle Trust can be set up instead with a sum of money allocated to it to provide for the beneficiary but which is again controlled by another trusted person.

A Special Care Lifestyle Trust:

- has no special means testing concessions
- covers all forms of vulnerability
- can provide for all needs eg all care, housing and lifestyle
- a non-professional trustee can be appointed (only need one)
- can include any children of the principal beneficiary

If you need assistance in this regard please talk to your Adviser or call Irongroup for an obligation free chat on **03 8621 9000**. Our legal team would be pleased to help.