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Abstract

This article is a reproduction of a brochure put out by the Nominees For the Handicapped Pty. Ltd., a company which administers trust arrangements made by the parents of people with a disability to secure their future, after the death of the parents. It answers commonly asked questions. **Keyword: Legal**

NOMINEES FOR THE HANDICAPPED PTY LTD

ACN 010 043 651

Administers Trust Funds for Persons with a Disability

A Corporate Trustee with a Special Mission

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TRUST ARRANGEMENTS FOR PERSONS WITH A DISABILITY

Some fifteen years ago, it became apparent to Endeavour Foundation, because of the number of enquiries being made, that there was a need for parents of persons with a disability to have a means whereby they could made provision for care to continue after their death or incapacity, and the Foundation responded by establishing a facility which enables care to be provided by means of trust arrangements.

To administer these trusts, a company Nominees for the Handicapped Pty Ltd (ACN 010 043 651), a wholly owned subsidiary of the Foundation, was incorporated.

Many parents have already made trust arrangements of this nature. Mr Vij Chandra, the Secretary of Nominees for the Handicapped Pty Ltd believes that answers to the most commonly asked questions are provided in a newly released brochure, and therefore the content of the whole brochure has been given space in this issue of Endeavour Foundation News.

THE TRUST COMPANY

Nominees for the Handicapped Pty. Ltd. is a trust company formed by Endeavour Foundation (formerly the Queensland Sub-Normal Children's Welfare Association) to administer Trusts for handicapped persons. The Company was registered in May 1978. The objects of the Trust Company are outlined in Appendix 1.

The company is a subsidiary of Endeavour Foundation and is managed by a Board of Directors appointed by the Foundation. The Directors appointed have had experience in the welfare of handicapped persons and the management of financial affairs. The links between Nominees for the Handicapped Pty. Ltd. and the Endeavour Foundation allow it to provide a Statewide service. Trust funds administered by Nominees for the Handicapped Pty. Ltd. are kept separate from all other funds.

REASON FOR SUCH A COMPANY?

Many parents are aware of the complexities involved in providing for their handicapped son/daughter in Wills. For instance, if relatives or friends are appointed as sole Trustee, difficulties may arise. Alternatively, established Trustee Companies are not necessarily specialists in understanding or caring for the needs of handicapped persons.

Parents now have access to a Trust Company specialising in the administration of Trusts for handicapped people.

HOW IS A TRUST OF THIS KIND CREATED?

In establishing a Trust with Nominees for the Handicapped Pty. Ltd., the steps are:

1. Discuss with a caring association, such as the

Endeavour Foundation, the requirements and costs of providing services or accommodation for handicapped persons.

2. Obtain from Nominees for the Handicapped Pty. Ltd., the draft documents. These documents are obtainable from Branches of the Endeavour Foundation or by writing to Nominees for the Handicapped Pty. Ltd., P.O. Box 2141, Fortitude Valley Qld., 4006. (Telephone (07) 252 7000)
3. Choose a solicitor or Trustee Company to prepare a Will. Present to the solicitor or Trustee Company, all documents obtained:
 - (i) Primary Trust Deed
 - (ii) Letter of Intent (optional)
 - (iii) Notification Form

WHAT ACTION SHOULD BE TAKEN BY A PARENT WHO HAS AN EXISTING WILL AND WISHES TO CREATE A TRUST?

Contact your solicitor or Trust Company and have the Will amended or redrawn.

WHAT ARE THE LIMITATIONS OF THE BENEFITS AVAILABLE UNDER A TRUST?

The only limiting factor will be the amount of money available. For example, parents may provide funds for accommodation, employment, activity therapy and any other services for the handicapped beneficiary. Parents can state all the terms and conditions of the Trust in the Deed and, in addition, record further wishes in the Letter of Intent. Since the level of benefits available to the beneficiary under the Trust will be limited by the extent of the funds, parents should review their Wills regularly to ensure that sufficient funds have been set aside to meet the anticipated costs of the desired benefits.

CAN PARENTS NOMINATE WHICH ORGANISATION IS TO RECEIVE FUNDS FROM THE TRUST TO CARE FOR THE BENEFICIARY?

Yes. Parents may nominate Endeavour Foundation, or any other caring association, to receive funds from the Trust to provide nominated or general services for a handicapped beneficiary.

WHAT HAPPENS TO FUNDS REMAINING IN THE TRUST AFTER

THE DEATH OF THE NOMINATED HANDICAPPED PERSON?

Parents can nominate in the Primary Deed what is to happen to residue funds.

1. They may be directed to a caring association such as Endeavour Foundation.
2. They may be directed to Nominees for the Handicapped Pty. Ltd. for the general use of handicapped people at the discretion of that Trust Company.
3. They may be returned to relatives.
4. They may be distributed in any other way.

CAN A PARENT APPOINT RELATIVES OR FRIENDS TO ACT AS CO-TRUSTEES WITH NOMINEES FOR THE HANDICAPPED PTY. LTD.?

No. Experience has shown that because of the specialised services being provided and the long term nature of the undertaking, the administration of the Trust must be placed in the sole control of the Trustee Company.

CAN A TRUST BECOME OPERATIVE DURING THE LIFETIME OF PARENTS?

Yes.

WHAT STEPS ARE REQUIRED TO ACTIVATE A TRUST DURING THE PARENTS' LIFETIME?

The parents request their solicitor to execute the Primary Trust Deed. The Trust must be funded by contributions prior to it becoming operative. Services for the handicapped person may then be provided under the Trust during the parents' lifetime.

ARE ADMINISTRATION FEES CHARGED?

Yes, as below.

<u>ON CAPITAL SUMS</u>		<u>ON INCOME</u>	
Trusts up to 100,000	3.5%	Interest	5%
100,001 to 500,000	2.5%	Rents	6%
500,001 to 750,000	1.5%		
750,001 and above	1.0%		

Subject to change without notice.

NOMINEES FOR THE HANDICAPPED PTY. LTD.

OBJECTS

- (a) to undertake and carry on (on such terms as may seem fit) the office or offices and duties of trustee or custodian trustee of any trust (wheresoever constituted and whether charitable or otherwise) the object or one of the objects or purposes of which is or shall or may contingently be the benefit of handicapped persons generally or individually or some one or more classes of such persons,
- (b) to support whether by gift provision of income or services or in any other way whatsoever the Endeavour Foundation,
- (c) to undertake and execute any other trusts or any office appointment or situation of trust or of confidence and to keep for any Government or authority company corporation club association body firm or person any register to stock bonds funds debentures debenture stock obligations shares securities or investments and to undertake any functions or duties in relation to the registration of transfers or the issue of certificates,
- (d) to act as trustee agent attorney proxy nominee factor manager receiver or representatives howsoever and of whatsoever nature for any Government or authority company club association body firm or person or for the transaction of business the management of estates the collection of rents interest dividends mortgages bonds bills notes and securities,
- (e) to establish and maintain or procure the establishment and maintenance of any contributory or non-contributory pension or superannuation funds for the benefit of and to give or procure the giving of donations gratuities pensions allowances or emoluments to any persons who are or were at any time in the employment or service of the company or officers of the company and the wives widows families and dependents of any such persons or to any person beneficially interested in any of the trusts undertaken by the company or the families of such persons and make payments to or towards the insurance of any such persons as aforesaid,
- (f) for the matters aforesaid to employ or engage all such employees or professional or other agents upon such terms as to remuneration and otherwise however as may be deemed fit,
- (g) to do so all such other acts of things as are incidental or conducive to the aforesaid matters or any of them,
- (h) in the matters aforesaid to act solely or jointly with any other person company corporation or body as the circumstances may require.

The complete Memorandum and Articles of Association of Nominees for the Handicapped Pty. Ltd. are available upon request.