



FEBRUARY, 2011

VOL 1 ISSUE 2

Personal & Professional Legal Service – delivered expeditiously

Blackman Legal operates on values of personal service and reliable and cost effective representation. We are proud to offer sound legal expertise and a dedication to the long-term legal, financial and personal satisfaction of our clients. We aim to deliver value to our clients and to meet their needs with common-sense advice and friendly service. Our relaxed office and handy location in Lindfield makes a visit to us a pleasant experience.

At Blackman Legal we will work with you to obtain optimum results, taking the time to explain legal procedures clearly and frankly. We realise the importance of keeping you well-informed at all stages of the process and understand your need for sensitivity and discretion.

The time is certainly flying. Hard to believe we are into the third month of 2011 already.

The recent spate of natural disasters – floods, tornadoes and earthquakes – is devastating and very concerning. Our hearts go out to all those who are suffering so much as a result.

We continue to develop our practice and have made good progress over the past month. Highlights include:

- Establishing relationships with other practitioners experienced in Intellectual Property Law, Family Law and Local Government & Planning Law. We are now able to offer our clients services in these important areas – and our first IP matter is underway. We are now taking instructions in these areas and further details of our associates will follow next month.
- Updating our logo, including adding our key values of personal & professional service.
- Working on a new format for our newsletter and a new website. These will hopefully be ready for next month.

Our article of interest this month deals with the new intestacy laws which apply when someone dies without a will – something we hope never happens to any of our clients !

We thank you for your support and encouragement and look forward to continuing to serve you personally and professionally.

Please feel free to pop into our new office or to contact us by one of the methods below at any time.

Kind regards,
Amanda and Alan

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What happens now if you die without a will?

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Amanda Blackman was admitted to practice law in 1987 and has been a Lindfield resident since 1994. Amanda founded Blackman Legal Pty Ltd in 2010 after being a partner at Biddulph & Salenger Lawyers since 2005. Prior to this Amanda ran her own sole practice for ten years whilst raising her family. She has also worked in several large and mid-sized legal firms. Amanda has a common-sense, efficient yet personal approach to the resolution of property, commercial and estate matters and is skilled at demystifying the legal process with advice that is easy to understand. Amanda is also a Notary Public.

New NSW legislation makes significant changes to the laws of intestacy. According to the NSW Law Reform Commission, in 2003 alone there were about 20,000 intestate estates in New South Wales!

Intestacy occurs when a person dies leaving no effective will (total intestacy) or where the will does not dispose of part of the deceased's property (partial intestacy).

Intestacy, of course, is an undesirable end in itself, and no substitute for making an appropriate and effective will.

What are the changes?

The legislation updates the order for the distribution of assets of an intestate estate, as follows:

1. Spouse and children
2. If no spouse or children, then in order:
 - a. Parents in equal shares, or to a surviving parent
 - b. Brothers and sisters (including half-brothers and half-sisters) in equal shares
 - c. Nieces and nephews in equal shares
 - d. Grandparents in equal shares
 - e. Aunts and uncles in equal shares
 - f. Cousins
3. If the above categories of entitled persons are exhausted, the estate is paid to the State. However, a new provision has been included whereby the State, upon written application, may waive its entitlement to an intestate estate in favour of:
 - Dependants of the intestate
 - Any organisation or person who has a just and moral claim; or
 - Any organisation or person for whom the intestate might have reasonably be expected to have made provision.

De facto spouses

The new definition extends 'spouse' to include a de facto relationship of no specific time period that has resulted in the birth of a child. Under the previous legislation, a de facto spouse would have taken the entire spousal share if he or she had been a de facto for a continuous period of at least two years prior to the death of the intestate; otherwise, the legal spouse would have received the spousal share.

What happens now if you die without a will?

Our Services

We offer a broad range of services across a range of legal disciplines:

- Property Law, Conveyancing and Leasing
- Wills and Administration of Estates
- Powers of Attorney and Appointments of Enduring Guardian
- Commercial Law
- Notary Public Services
- Intellectual Property
- Family Law
- Local Government and Planning



Spousal entitlements

As before, if an intestate leaves a spouse and no children, the spouse is entitled to the whole of the estate.

However, there is now a new provision which states that if an intestate leaves a spouse and children of the deceased and spouse, then the spouse alone is entitled to the whole intestate estate (i.e. no sharing with the children). This reflects the assumption that the intestate's children will inherit in due course from their surviving parent who is the deceased's spouse or partner.

A title or caption about the photograph.

If there is a spouse and children, who are not children of the spouse, the spouse is entitled to:

1. The intestate's personal effects, and
2. \$350,000, and
3. One half of the remainder of the intestate estate.

The children receive the other remaining half of the estate.

In another significant change, the spouse is no longer automatically entitled to the family home, for instance, at the expense of the intestate's children. Instead, the spouse will have a special right to elect any part of the estate in satisfaction of his or her entitlement.

Summary

The new NSW intestacy legislation was an attempt to redress perceived inequities in current intestacy legislation.

Whilst this legislation makes significant changes in intestacy laws in New South Wales, it is no substitute for making an appropriate and effective will.

For as little as \$330 (incl GST) Blackman Legal can draft a legally effective will, setting out your intentions and ensuring that the intestacy laws will not apply to your estate.

DISCLAIMER

This newsletter is for the benefit of clients. The information is of a general nature only.