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# New South Wales: 7th Annual Wills, Succession & Estate Planning Conference

Essential updates on the legal  
complexities and financial  
aspects of wills, succession  
and estates

10 – 12 March 2009,  
The Grace Hotel  
Sydney

## Don't miss this opportunity to:

- Discover the intricacies of **taxation for multi-jurisdictional and overseas assets** and the latest changes to tax and superannuation rules in a new regime
- Evaluate the impact of the **latest statute developments** in de facto and same sex laws
- Analyse **recent case law** on testator's family maintenance, estate litigation and probate
- Gain **expert advice** on testamentary trusts, family trusts, business succession, binding death nominations and superannuation

**Register Today! Ph: 1800 772 772  
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## Expert speakers include:

**Tim Somerville**, Partner, **Somerville & Co**

**Jenny McMillan**, Head of Estate Planning,  
**Trust Company Ltd**

**Robert Monahan**, Estate Planning Specialist,  
**Australian Executor Trustees Limited**

**Michael Kobras**, Partner, **Schweizer Kobras**

**Richard Neal**, Partner, **Teece Hodgson & Ward**  
**John Armfield**, Barrister

**John Poole**, Principal, **Maurice Buckley, CT Poole & Son**

**Kevin Munro**, Principal, **Munro Lawyers**

## Plus: Don't miss the workshops on:

**Essential Will Drafting**

**Christine Page**, Lawyer, **David Landa Stewart**

**Effective Transfer of Wealth**

**Tax Essentials In Estate Planning**

**Denis Barlin**, Director, **SBN Lawyers Pty Ltd**

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# New South Wales: 7<sup>th</sup> Annual Wills

## Essential updates on the legal complexities

### Day one: Tuesday 10 March 2009

8.30 **Conference registration**

9.00 **Opening remarks from the chair**

*Jenny McMillan, Head of Estate Planning, Trust Company*

9.15 **Considering the *Succession Amendment (Family Provision) Act 2008***



Hot Topic

- Chapter 3 of the *Succession Act 2006*;
  - Prescribed period reduced to 12 months; no extension by consent;
  - Regulations allowed on advertising; mediation and costs;
  - “Small estates” - \$750,000

*Richard Neal, Partner, Teece Hodgson & Ward*

10.00 **Effective mediation in family provision matters**

Conducting effective mediation in relation to family provision matters is vital. This session will provide an outline on the appropriate way in which to prepare and then conduct a mediation, from the perspective of the advocate, the instructing solicitor and also the mediator.

*Damien Mullins, Senior Counsel*

10.45 **Morning tea**

11.15 **Examining issues in relation to advising non traditional families, blended families, second marriages, family breakdown, de facto and same sex relationships**

- Drafting wills for non traditional families
- Investigating the same sex relationships (*Equal Treatment in Commonwealth Laws – General Law Reform*) Bill 2008 – emerging legislation on de facto and same sex relationships and implications for wills and estate planning, taxation and superannuation
- Providing for orderly and enforceable succession in cases of family breakdown – before and after death
- Analysing the effects of divorce and remarriage on a will, claims of second or subsequent wives
- Ownership of assets and joint tenancy, the impact of binding financial agreements
- Gauging the potential of family provision applications

*Jenny McMillan, Head of Estate Planning, Trust Company*

12.00 **Examining cross border estate planning and overseas assets**

- Overseas assets and foreign inheritance taxes – avoiding snags, traps and pitfalls
- Pinpointing issues in relation to drafting foreign wills and issues in relation to different jurisdictions
- Assessing to which jurisdiction domestic law applies
- Issues to consider when drafting a will when the testator or an intended beneficiary is a foreign national

- Making provisions for overseas investments
- Navigating civil law entities, Islamic trusts etc

*Michael Kobras, Partner, Schwelzer Kobras*

12.45 **Networking lunch for speakers and delegates**

1.45 **Recent developments in case law in deceased estate litigation, probate and contesting wills**



Case Law Update

- Contesting the validity or interpretation of a will
- Breach of duty by executor
- Procedures and rules
- Interstate estates under the *Administration and Probate Act*
- Cross-jurisdictional issues
- Examining caveats and grounds for lodging caveats against grant of probate/ administration, forms, duration and procedure

*John Armfield, Barrister*

2.30 **Examining testator’s family maintenance claims**

- Exercising discretion in taking instructions – TFM requirements, moral duty and the propriety of the testator’s wishes
- Balancing the statutory mandate to provide adequate provision with the right to testamentary freedom
- Preparing TFM claims
- Determining eligibility for application and time limits
- Examining powers of the Courts
- Recent TFM cases/judgements under *Part IV Administration and Probate Act 1958*

*Robert Monahan, Estate Planning Specialist, Australian Executor Trustees Limited*

3.15 **Afternoon tea**

3.45 **Roundtable discussion session: Analysing complex scenarios in wills and estates**



Interactive Roundtable

This session will provide a forum to discuss and explore various scenarios in wills and estate planning involving blended families, same sex relationships, adoption, bankruptcy, intestacy and other complex issues. Delegates will break into roundtables and discuss different estate structures and strategies to ensure assets are protected and optimized, family members are provided for and litigation is avoided.

*Jenny McMillan, Head of Estate Planning, Trust Company*



4.45 **Closing remarks from chair**

5.00 **Close of day one**

# Succession and Estate Planning Conference

## and financial aspects of wills, succession and estates

### Day two: Wednesday 11 March 2009

8.30	<b>Conference registration</b>	12.45	<b>Networking lunch for speakers and delegates</b>
9.00	<b>Opening remarks from the chair</b> <i>Tim Somerville, Partner, Somerville &amp; Co</i>	1.45	<b>Preventing abuse of Power of Attorney</b> <ul style="list-style-type: none"><li>• Recognising when your client is a victim of financial abuse</li><li>• Steps to take for prevention of further abuse</li><li>• Outlining who can assist in this process?</li><li>• Ensuring legal protection for elderly Australians</li><li>• Issues in guardianship, enduring medical guardianship and the role of the tribunal</li></ul> <i>Wayne Fielding, Principal, Elder Abuse Prevention Programs Inc</i>
9.15	<b>Maximising asset protection and minimising tax liabilities in business succession</b> <ul style="list-style-type: none"><li>• Examining issues in relation to generational change of control of ownership</li><li>• Understanding the true tax profile of the family and business assets</li><li>• Reorganising a trust, company or partnership</li><li>• Utilising the CGT small business concessions</li><li>• Pinpointing buy and sell arrangements and funding options</li><li>• Maintaining asset protection</li><li>• The importance of the management succession plan</li></ul> <i>Tim Somerville, Partner, Somerville &amp; Co</i>	2.30	<b>Examining succession planning and challenges in Family Trusts</b> <ul style="list-style-type: none"><li>• Examining options for succession</li><li>• Control of family trusts and trust deeds</li><li>• Reviewing cloning and splitting trusts and passing trusts onto second and third generations</li><li>• Assessing tax advantages and reviewing comparisons with testamentary trusts and avoiding de facto inheritance tax</li><li>• Evaluating administration issues in regard to family trust election versus imposed entity</li><li>• Debts, beneficiary, loan accounts, overseas beneficiaries</li></ul> <i>Andrew Frankland, Partner, Bartier Perry</i>
10.00	<b>The importance of accurate estate accounting and the entitlement of executors to commission</b> <ul style="list-style-type: none"><li>• When accounts are needed</li><li>• Is a payment or receipt capital or income?</li><li>• Estate accounts for purposes of distributions and income tax</li><li>• Statutory basis and exercise of discretion</li><li>• Professional persons as executors</li></ul> <i>John Poole, Principal, Maurice Buckley, CT Poole &amp; Son</i>	3.15	<b>Afternoon tea</b>
10.45	<b>Morning tea</b>	3.45	<b>Incorporating philanthropy and charitable giving into estate planning</b> <ul style="list-style-type: none"><li>• Moulding philanthropy to the clients interests</li><li>• Weighing the merits and weighing charitable giving through wills</li><li>• Defining charity and a charitable gift</li><li>• Reviewing taxation, legislation and regulations considerations</li><li>• Which entities are entitled to Deductible Gift Recipient (DGR) status?</li><li>• Examining clauses for making a charitable bequest</li><li>• Assessing tax deductions and exemptions</li></ul> <i>Tanya Costello, Senior Lawyer, Philanthropy, ANZ Trustees</i>
11.15	 <b>Analysing the current ATO compliance regime and the implications for estate and succession planning</b> <ul style="list-style-type: none"><li>• Overcoming the intricacies of death and taxes in a new tax regime</li><li>• Reviewing tax considerations for estate planning and succession</li><li>• Assessing the most tax effective options for intended beneficiaries</li><li>• Assessing tax obligations of executors</li><li>• CGT and decreased estates: pre and post CGT assets, accessing CGT concessions</li><li>• Examining stamp duty property and land tax issues</li></ul> <i>Kevin Munro, Principal, Munro Lawyers</i>	4.45	 <b>Discussion session: examining risk management issues for practitioners</b> <ul style="list-style-type: none"><li>• Considerations in giving effect to clients instructions, ensuring that will is validly executed and attested</li><li>• Advising against accidental revocation</li><li>• Breach of duties which amount to negligence – examining liability of practitioners</li><li>• Evaluating risks associated with duty to beneficiaries</li><li>• Civil liability risks to prevent undue influence and fraud</li></ul> <i>Tim Somerville, Partner, Somerville &amp; Co</i>
12.00	<b>Testamentary Trusts in estate planning</b> <ul style="list-style-type: none"><li>• Establishing when it is necessary to create a testamentary trust</li><li>• Creating a balance between protection and flexibility</li><li>• Avoiding common drafting errors</li><li>• Examining practical tax benefits</li><li>• Fiduciary, financial and administrative duties of trustees – empowering and restricting the executor and trustee</li><li>• Testamentary trusts as an asset protection strategy</li><li>• Indemnity clauses</li><li>• Terminating the testamentary trusts</li></ul> <i>Michael Fitzpatrick, Solicitor, Barrister &amp; Partner, Clarendene Estate Planning Lawyers a business unit of PricewaterhouseCoopers Australia</i>	5.30	<b>Closing remarks from chair</b>
		5.40	<b>Close of conference</b>

## Post-Conference Workshops: Thursday 12th March 2009

### Workshop A: Essential Will Drafting

8.30 **Workshop A registration**  
Morning tea included

#### 9.00 **About the Workshop**

Armed with comprehensive information about your client, the practitioner can now proceed to draft the will. The session will refine all levels of skill to ensure that formal requirements, commercial considerations and personal relationships are woven together in the most effective manner for your client.

#### **Workshop Agenda**

- How to draft standard clauses
- Assessing and setting up appropriate trusts
- Understanding precedents

#### **Workshop Leader**

**Christine Page**, Lawyer, **David Landa Stewart** was admitted in 1981 and specialises in wills, probate and estate planning, having worked with Trust (formerly Permanent Trustee Company) for many years and now Accredited Specialised in Wills and Estate Law

12.30 **Networking lunch for full day delegates**



### Workshop B: Effective Transfer of Wealth Tax Essentials In Estate Planning

1.30 **Workshop B registration**  
Afternoon tea included

#### 2.00 **About the Workshop**

To ensure the effective transfer of wealth, estate planning must address the entirety of superannuation, life insurance, family trusts, geared investments, asset protection strategies and the tax considerations for each. This workshop will cover the income tax treatment of deceased estates, excepted income and Capital Gains Tax (CGT)

#### **Workshop Agenda**

- Forms of ownership, types of assets, superannuation, family/hybrid trust assets, joint tenancies, personally owned assets
- Superannuation death benefits and tax
- Income tax concessions
- Capital Gains Tax – transfer of asset from deceased to executor, executor to 3rd party, from executor to beneficiary, who pays tax, when does an asset pass, testamentary trusts, assets owned by companies and trusts, principal residence, jointly owned properties, life interests, capital losses
- State duty and land tax
- Testamentary trusts and tax – tax treatment, estate proceeds trust, direct gift to infant, constraints, trust losses, superannuation
- Charitable trusts
- Vulnerable beneficiaries
- Debt, bankruptcy and insolvency – superannuation and insolvent estates

#### **Workshop Leader**

**Denis Barlin**, Director, **SBN Lawyers Pty Ltd**

*Denis advises on all aspects of revenue laws, including income tax, CGT, GST and State taxes. As well as taxation, Denis provides advice on trust law matters generally and superannuation. Denis has been a regular speaker for professional associations such as the Taxation Institute and a regular contributor to a number of professional journals.*

5.30 **Close of workshop**

## Register 2 and 3rd attends FREE!

Register a team of 2 for the 7th Annual Wills, Succession and Estate Planning at the same time, from the same organisation and receive a **free pass for the 3rd delegate**.

(See registration page for details)

## Upcoming events:

**Contract Law Masterclass:** 10-12 February 2009, Sydney

**Carbon Risk Conference:** 18-19 March 2009, Sydney

**Employment Law for HR Professionals:** 1 April 2009, Sydney

For more information please visit [www.lexisnexis.com.au/pd](http://www.lexisnexis.com.au/pd) or ph: **1800 772 772**

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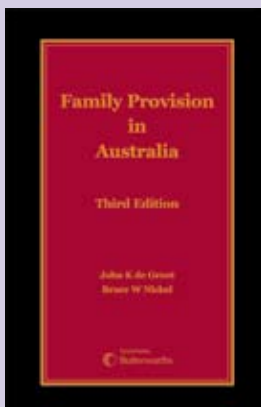
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## Who Should Attend?

- Wills and probate lawyers
- Estate planning lawyers
- Succession law practitioners
- Barristers
- Trustee companies
- Financial planners
- Taxation advisers working in the area of estate planning



## Family Provision in Australia - 3rd Edition

*John K de Groot & Bruce Nickel*

Family Provision in Australia – 3rd Edition is an easy-to-use, practical guide for legal practitioners detailing the practice and procedure of family provision law on a state-by-state basis. The text incorporates a comprehensive checklist, case tables, forms, precedents and a reproduction of state and territory family provision legislation.

Publication date: September 2007

Hard Cover ISBN: 9780409323948

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# Priority registration form NSW: 7th Annual Wills, Succession and Estate Planning Conference

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to register**

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Locked Bag 2222, Chatswood NSW 2067  
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Please complete sections A, B, C, D

Conference code: PD1909 ABN: 70 001 002 357

## A Delegate 1 details

Mr/Ms/Dr: \_\_\_\_\_  
First name Last name

Position: \_\_\_\_\_

Organisation: \_\_\_\_\_

Postal address: \_\_\_\_\_

Suburb Postcode State

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email (required\*\*): \_\_\_\_\_

## Delegate 2 details

Mr/Ms/Dr: \_\_\_\_\_  
First name Last name

Position: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email (required\*\*): \_\_\_\_\_

## 3rd Delegate FREE! Delegate 3 details

Mr/Ms/Dr: \_\_\_\_\_  
First name Last name

Position: \_\_\_\_\_

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## C Event Pricing (please tick your selection)

### Advance price\* (register and pay before 9 January 2009)

<input type="checkbox"/> Two Day Conference + 2 Workshops	\$2400 + GST = \$2640.00
<input type="checkbox"/> Two Day Conference + 1 Workshop#	\$2150 + GST = \$2365.00
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# If attending one day only, please select:  Day one or  Day two

# If attending one workshop only, please select:  Workshop A or  Workshop B

Yes I wish to purchase the Family Provision in Australia – 3rd Edition book  
\$204 + GST = \$224.00

### CONFERENCE RESOURCES

I am unable to attend but would like to purchase a set of conference papers for the 5th Annual Wills, Succession and Estate Planning \$360.00 + GST = \$396.00

### TEAM DISCOUNTS\*

Register a team of 2 to the conference at the same time, from the same organisation and receive a free pass for the 3rd delegate.\*

\* Early Bird, team discounts and any other discount cannot be taken concurrently

## D Please tick as many practice areas you work in which apply:

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