

“Private Trusts & Succession Planning for the Cognitively Impaired”

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Research indicates that there is significant unmet need for legal services for carers¹ of people with impaired competence.² People with impaired competence and their carers need better access to legal planning and related services, which are inexpensive, well-informed, independent, reliable and sensitive to their needs. This Report discusses the implications arising out of recent federal reforms introducing ‘Special Disability Trusts’. These amendments provide a set of dispensations from social security means-testing and gifting rules for qualifying trusts, but are strictly confined and will assist only small numbers of people. The authors therefore conclude that preserving social security benefits still remains the overwhelmingly dominant consideration in crafting plans for the vast majority of the carers of people with impaired competence. “Private Trusts and Australian Social Security” is intended for anyone with an interest in the social and legal dimensions of planning for the future needs of a person with impaired competence, including carers, legal practitioners, policy-makers, academics and the general public.

If you would like a full-text copy of “Private Trusts & Succession Planning for the Cognitively Impaired” please contact Professor Patrick Keyzer, Bond University at: pkeyzer@bond.edu.au

¹ This concept is inclusive of parents, spouses, children, family members and friends who provide unpaid support and assistance to a person whose competence has been impaired.

² Impaired competency is a legal term which is used to refer to the ability of a person to make legal decisions about their money, property and care in the future. It is possible for anyone to lose their ‘competency’ to make these important legal decisions. The factors that may affect a person’s competency to make them include: developmental disability, acquired brain injury, dementia and/or chronic mental illness.