

Sladen drives
Legal results

Updated SMSF deed and our new SMSF corporate trustee stakeholders agreement

Sladen Legal has conducted a major review of our self managed superannuation fund (SMSF) documents including the SMSF deed, the SMSF deed update and the SMSF pension agreements. We are pleased to announce our new SMSF corporate trustee stakeholders agreement.

SMSF deed and the new guardian role

The Sladen Legal SMSF deed has had a major review. Updates include:

- the introduction of a guardian role;
- more comprehensive provisions dealing with death benefits and binding death benefit nominations;
- the ability to make binding death benefit nominations under a member's will;
- more comprehensive provisions dealing with the interactions between binding death benefit nominations and reversionary pensions;
- comprehensive provisions dealing with when a binding death benefit will be, or deemed to be, revoked in part or in full;
- an express ability of beneficiaries to disclaim death benefits or reversionary pensions;
- more comprehensive provisions dealing with separate member interests;
- more flexibility in paying benefits;
- retention of the easy to read format including the use of guides, notes and examples; and

- the ability of accountants and financial planners to be "co-branded" on the cover page of the SMSF deed.

The most significant update is the introduction of the guardian role as a standard feature. The guardian role has been designed to allow greater flexibility in the control of an SMSF. This includes:

- the power to appoint and remove members and trustees;
- requiring the consent of the guardian before certain actions of the trustee are taken (including changing trustees, paying benefits, admitting members, amending the fund deed etc).

The guardian role is especially important for SMSFs, given that the superannuation law limits who can be the trustee or director of the corporate trustee of an SMSF. No such restrictions apply to the guardian role. Therefore, this has the flexibility of bringing non-members into the guardian role (eg. independents or corporations) or not having all of the members of the SMSF as guardians (eg. having the parents, but not the children, as guardians).

In addition, the guardian role gives greater flexibility in succession planning. This includes appointing successive guardians and the use of corporate guardians. A guardian role will also allow family groups to have consistency of control (for example the guardians in the SMSF could match the appointors in the discretionary trust(s)).

For more information,
please contact:

Phil Broderick
03 9611 0163

pbroderick@sladen.com.au

or

Rob Jeremiah
03 9611 0103

rjeremiah@sladen.com.au



SMSF corporate trustee stakeholders agreement

The SMSF corporate trustee stakeholders agreement has been designed to allow greater control over an SMSF corporate trustee. This includes:

- the introduction of a guardian role at the corporate trustee level;
- the ability of guardians to appoint and remove directors and acquire the shares of shareholders;
- regulating the meetings of directors and shareholders; and
- a dispute resolution procedure for shareholders and directors.

The major drawback of SMSF deeds is the inability to properly deal with a corporate trustee and, in particular, the directors and shareholders of a corporate trustee. The SMSF corporate trustee stakeholders agreement overcomes this by incorporating many of the provisions governing trustees in the SMSF deed into a document which is binding on directors and shareholders.

The SMSF corporate trustee stakeholders agreement is a vital succession tool for all SMSFs with corporate trustees.

More information

For more information about the above documents or any of our superannuation products visit our superannuation page www.sladen.com.au/superannuation

or the Sladen Store

www.sladen.com.au/sladen-store

or contact:



Phil Broderick

03 9611 0163

pbroderick@sladen.com.au

or



Rob Jeremiah

03 9611 0103

rjeremiah@sladen.com.au

Sladen Legal
Level 5, 707 Collins Street
Melbourne 3008
Victoria Australia

PO Box 633
Collins Street West
Victoria 8007

T +61 3 9620 9399
F +61 3 9620 9288

sladen.com.au

