

Business Succession Planning

The Australasian Lawyers Group Pty Ltd trading as Butlers, Barristers & Solicitors

What is a business succession plan?

In general, a business succession plan is a legal arrangement which ensures that a business will continue to exist when defined events occur e.g. death, retirement or disability to key employees and principals of a business. It is an arrangement whereby rights are created which require parties to the plan to either buy or sell defined business interests and property of another party upon the occurrence of certain events.

Who are the parties to the plan?

Individuals or entities who are either interested or involved in the business are parties to the plan. Usually, they are key employees and principals of the business.

What are the rights created by the plan?

The rights created by the arrangement require the parties to either buy or sell defined business interests and property of another party. These interests often include company shares (if the business is a corporate entity), partnership interests and land.

What are the events defined in the plan which allow the parties to buy and sell another party's business interests?

The defined events commonly referred to in the plan are:-

- the death of any party;
- total or permanent disability (TPD) of any of the parties;
- trauma, which occurs if any of the parties contracts a major disease or condition as identified in a policy of trauma insurance; and
- retirement of a party.

How are business succession plans funded?

There are several ways in which business succession plans are funded. They include:

- self funding, which means finding the funds from one's own resources;
- insurance obtained against defined events, i.e. death, TPD and trauma;



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- creating a sinking fund, which means placing funds aside now; or
- any combination of the above.

Why have a business succession plan?

A business succession plan has several benefits, some of which include the following:

- ensures that a business continues to exist following the retirement, death, TPD and trauma of a key employee or principal of the business.
- gives the remaining parties involved in a business the peace of mind of knowing who will be involved in the business in the future.
- gives each party and his/her family the security of knowing that they will have the financial means to support themselves when a defined event occurs.
- helps the business continue smoothly and with the least disruption upon an event occurring.

A large part of our practice at Butlers involves the review of business structures and the advise and preparation of a Business Succession Plan. As the amount of work involved varies considerably from client to client, we have prepared this guide which sets out the usual services and charges in the preparation of a Business Succession Plan. An initial consultation and preliminary advice in relation to your Business Succession Plan will be based upon the hourly rate of the solicitor taking your instructions. You will be under no obligation at the end of the initial appointment to retain our services.

Complete Estate Planning Service Includes the Following and is Exclusive of Document Preparation:

Review existing asset ownership &
related liabilities

Review existing Wills and EPAs

Review existing Trusts

Review Company/Business structure

Review Superannuation Funds

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Prepare letter of advice or recommended Estate Plan

Conduct meetings with your Accountant, Financial Advisors, Bank Manager and develop strategy to implement any changes to Estate Plan \$2,000.00 - \$3,000.00

Prepare Discretionary Trust Deed \$450.00 - \$600.00

Prepare Declaration of Trust \$450.00 - \$600.00

Review existing Trust Deed \$450.00 - \$600.00

Prepare Deed of Variation \$450.00 - \$600.00

Prepare Deed of Appointment \$350.00 - \$500.00

Prepare Partnership Deed \$600.00 - \$1,500.00

Prepare Farming Lease Agreement \$750.00 - \$1,500.00

Prepare Business Succession Agreement \$2,500.00 - \$4,000.00

Prepare Shareholders Agreement \$2,500.00 - \$4,000.00

We advise that the quoted charges **do not** include the following:

GST

- Correspondence written to you or on your behalf
- Fees to stamp and register documents e.g. stamp duty and Landgate fees
- Disbursements e.g. photocopying, binding, title and company searches

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Butlers

At Butlers we pride ourselves on being “The Personal Law Firm”. Our commitment at Butlers is to make the law more accessible, affordable, understandable and human. We aim to reduce your concerns by speaking and writing in plain English, cutting through legal jargon and keeping you informed at all times. Through it all, we work closely with your family’s accountant, bank manager, financial adviser, and other professionals as required. We therefore encourage our business clients to act now to obtain the information and advice which will enable them to ensure that their business continues in the manner they desire following the death, disability or retirement of a key employee or principal of the business.

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