

WILLS AND THE DISADVANTAGED

Whilst many legally competent adults do not have a Will or have not updated their Will for many years, there is a group of people who suffer physical and intellectual disabilities which prevent them from making a Will. This inability to make a valid Will in the normal way means they would die intestate with the consequences that their estate is distributed in accordance with the intestacy provisions under the *Succession Act*.

The law now recognises that someone with severe physical or intellectual disabilities eg suffered in an accident and who has received a large compensation payment may die owning substantial assets eg house, cash or shares, should be able to ensure their assets pass to the "right" person/s. So now an application may be made to the Court for a statutory Will leaving their assets to appropriate beneficiaries in appropriate shares. For example, it would be reasonable to expect that a severely disabled 35 year old person with no spouse or children is likely to leave their estate to their parents and/or brothers and sisters.

These statutory Wills, which may also be altered or revoked, may overcome the injustice imposed upon them by the Intestacy Rules.

Please contact us if you wish to discuss your circumstances and the two stage process available under the *Succession Act*. Obviously it is better to make a Will before a lack of testamentary capacity prevents you from doing so or requires the expense of a court application.