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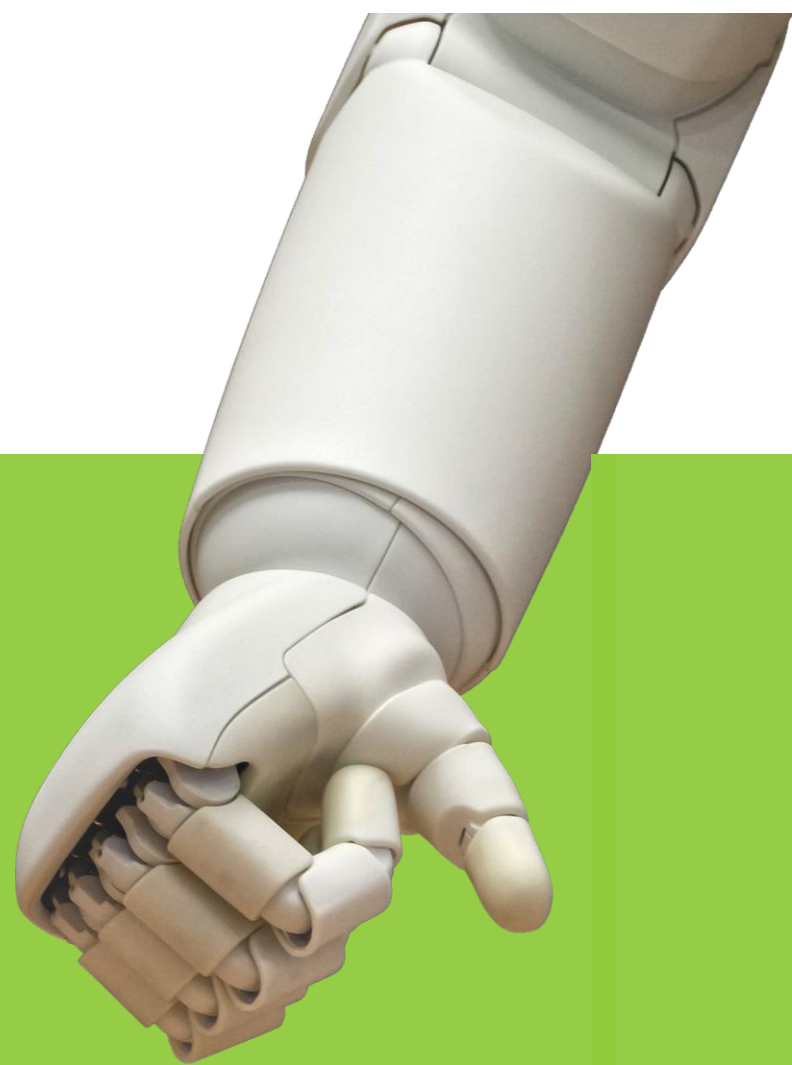


# Providing Solutions not Documents



# Protecting all of your client's companies – trustee or business with the Successor Director Solution

with Grant Abbott from LightYear Docs and Tim Munro Change GPS



3 December 2020

## 2020 Total number of companies registered in Australia

Month	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
November	48,879	935,761	12,999	502,788	135,843	28,654	909,133	247,500	2,821,557

*What happens with these companies, whether single or multi-director, if your client director dies, becomes incapacitated, goes to jail or can't be found?*

# Three Case Studies

- John Smith is a sole director of Smith Nominees Pty Ltd which acts as trustee for the Smith Family Super Fund. John has died and the shares are owned by John. He had \$2M in the Fund mostly in equities and the market is dropping
- John Smith is a dual director with his spouse Helen in Smith Trading company. The shares are held by John and Helen. John dies without a valid will as not witnessed properly. Helen has never been in business and is trying to run the company but lost \$500,000 so far
- John Smith and Jim Jones were sole directors and shareholders of a company JoJim Pty Ltd which acts as trustee for the JoJim Property Trust. The Trust is currently finishing off developments and Jim told John that he needs the money from the Trust first as he is going through a tough divorce. John dies.

# Alternate or Successor Directors

	<b>Alternate directors generally (subject to differences in company constitutions)</b>	<b>Successor director</b>
Do you need to notify ASIC?	Yes	Yes, it's a fully-fledged director
Power to sign circulating resolution	Yes	Yes
Power to vote at meeting?	Yes, only when appointing director not present	Yes
Counted as part of the total number of directors?	No	Yes
Must be a director to act in the role?	No	Yes
Does the position cease if the appointing person loses capacity or dies?	Yes	No, it is these events that automatically appoints the nominated successor director as a 'real' director

# The Successor Director Solution

- The company constitution must include the ability of a director, with the prior agreement of the Board of Directors, to appoint a Successor Director
- Step One: Upgrade the Company Constitution
  - Upgrade is completed under section 136 of the Corporations Act through a shareholders meeting
  - The old constitution disappears and a new replacement implemented
  - Choose the company from trustee companies to trading companies
- Step Two: Directors resolve to appoint a Successor Director for one of the Directors in the event of the death, incapacity, bankruptcy, imprisonment, not available, who is overseas or does not want to act as a Director anymore

# So Successor Directors are the top of the tree

- First the company constitution needs to have relevant authority for Successor Directors
- For SMSF trustee companies:

5.1.4 Any Member who is a Director may seek to appoint a Successor Director, as a Replacement Director, who is to take the Directors directorship in the event of the Director's incapacity, bankruptcy, death or by their own choosing provided such an appointment does not breach the Superannuation Laws.

- For ordinary companies:

45.6. Notwithstanding rule 45.5 the Directors, at the request of a Director, may confirm the appointment of a Successor Director who is to take the Directors directorship in the event of the Director's incapacity, bankruptcy, death or by their own choosing.

# Successor Director is built into EPOA

- We chose EPOA rather than a separate document as it saves time and also it places the EPOA in as the Successor Director
- A separate EPOA for Successor Director can be achieved by only ticking the Successor Director button

Please enter the **Power of Attorney** details below

Attorney is authorised to...

- Act on behalf of the principal for the superannuation fund or superannuation funds including acting as a Replacement Trustee or Replacement Director while this enduring power of attorney is valid and the principal have consented to them acting as such
- Do anything on behalf of the principal that can lawfully be done by an attorney (including both personal and financial matters)
- Act as a Successor Director where the Principal is a director and no longer able or willing to act as a director through incapacity, death or their own choosing



# Now its own Solution

- From our intel legal firms offering the Successor Director solution charge in excess of \$1,000 per company – assuming they know what to do
- *There are two solutions on the LightYear Docs Platform*
- In the Companies section we have the single company solution which includes an upgrade of the company constitution and also the binding resolution
- The cost for the single Successor Director solution is \$145
- In the specialist Strategist and Licensee section we have the option of doing multiple Successor Director solutions.
- This automation makes life so much easier and for a three company solution shaves off 80% of the time and is included as part of the subscription

# The Final Word

- Work with Change GPS to get the communications out to clients. Great way to start now with lead up to Christmas and New Year break as it can be done quickly and easily for each company
- Work out the charge rate – get client sign off and away you go
- Post that strongly suggest the Protector as it will be a life saver for many clients over the next few years. It solves the problem of assets exposed to litigation or family provisions claims
- And don't forget the Leading Member suite which provides family wealth protection for the bloodline stopping any dilution of family wealth