

THE USE OF LIGHTYEAR DOCS BY ACCOUNTANTS AND FINANCIAL PLANNERS

ALL YOUR QUESTIONS ANSWERED



INTRODUCTION

When using the LightYear Docs document, strategy and automation platform Tony Anamourlis of Abbott Mourly Lawyers has advised that:

"We confirm that the users of the LightYear Docs platform - generally accountants and financial planners are not in breach of any provisions under the Legal Profession Uniform Law Application Act 2014 as these users are in the business, amongst other services, of providing accounting or financial planning advice and not legal advice, nor a legal service nor are the users engaging in legal practice. However in some complex areas such as the insertion of a varied range of client instructions into a Will or other such documents the user must be mindful of the extent to which a document is being drafted by the user rather than merely the administrative task of completing a form where the relevant fields are inserted into the reviewed and signed legal document provided by Abbott & Mourly."



THE LAW

The above advice is born out of numerous cases dating back to *Re Sanderson, Ex parte Law Institute of Victoria* [1927] VLR 394, 397 where the Court held:

"if a person does a thing usually done by a solicitor, and does it in such a way as to lead to the reasonable inference that he is a solicitor - if he combines professing to be a solicitor with action usually taken by a solicitor - I think he then does act as a solicitor."

Likewise in *ACCC v Murray* (2002) 121 FCR 428, 448 where Murray was building a franchise business that involved the legal writing and drafting of Wills from scratch based on the client's personal circumstances. The Court held that this process was legal work.



LIGHTYEAR DOCS AND LEGAL SERVICES

LightYear Docs documents have been reviewed and signed off by Abbott & Mourly. Tony Anamourlis of Abbott & Mourly advises that "at no time, due to inbuilt legal protection and security measures can a user change or amend a document on the LightYear Docs platform that has been signed off by a practicing solicitor. To do so would result in the user drafting a document of a legal nature and engaging in the provision of legal services. In addition it would be a breach of copyright. In our opinion when completing the form fields through the LightYear Docs platform, users and their employees are merely carrying out an administrative task which is not the provision of legal advice."



QUESTIONS AND ANSWERS

1

Is completing a company on the LightYear Docs platform the provision of legal advice?

No. The completion of a company is governed by the Corporations Act 2001 and company agents and others are authorised to deal with the Australian Securities and Investment Commission to complete a company and make changes to company constitutions.

2

Is completing a binding death benefit nomination (“BDBN”) or SMSF Will based on a client fact find the provision of legal advice?

No. The completion of a BDBN or SMSF Will based on a client fact find is not the provision of legal advice.

3

Is an accountant completing tax and SIS compliance advice around SMSFs caught by the Australian Financial Services licensing regime?

No. ASIC has released an extensive table highlighting the wide range of exemptions for accountants including completing an investment strategy, providing tax and SIS compliance advice for trustees of a Fund plus tax advice and contribution cap levels but must be mindful of not recommending a client to make a contribution. The link to the ASIC guidance is a “must read” for accountants:
ASIC: Accountants Exemption Ruling

4

Is a lawyer recommending a SMSF or pension exempted from the Australian Financial Services licensing regime?

No. Where a lawyer is provided with an exemption for doing work in the ordinary course of a lawyer’s business, this does not extend to doing work which would require a real estate licence: Dr Claire Noone, Director of Consumer Affairs Victoria v Peter Mericka & Ors [2012] VSC 101. This has caused concern for lawyers in terms of Australian Financial Services licensing where a similar exemption applies such that the drafting of a pension document from scratch based on client instructions is part of the ordinary course of a lawyers business but not the recommendation of a person to commence a pension or a self-managed superannuation fund.

5

If an accountant or financial planners completes an LightYear Docs Enduring Power of Attorney based on a client’s fact find is this the provision of a legal service?

No. The completion of an EPOA based on a client fact find is not the provision of legal advice. However where a client wants special provisions inserted into the EPOA or where in NSW an EPOA needs a solicitor’s sign off please contact Tony Anamourlis – tanamourlis@abbottmourly.com.au to arrange a client zoom meeting.

6

If an accountant or financial planners completes a LightYear Docs Will based on a client’s fact find is this the provision of a legal service?

No. The completion of a Will based on a client fact find is not the provision of legal advice. However due to expansive family provisions claims where eligible persons can make a claim on an estate if a client answers yes to any of the following:

- Are you getting married in the near future?
- Are you separated but not yet divorced from your spouse?
- Do you have an ex-spouse?
- Do you wish to exclude any close family members such as a spouse, partner, child or other dependent person from your Will?
- Do any of your beneficiaries have special needs including mental or physical incapacity, marital problems, bankruptcy issues or are a big spender?
- Do you own a business or own shares in a family company or have control or financial interest in a trust?
- Do any of your beneficiaries live overseas?

then please contact Tony Anamourlis – tanamourlis@abbottmourly.com.au to arrange a client zoom meeting.