



Hutchinson
Legal

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Partner

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WINTER 2018

Insight

Introducing our new Partner

Hutchinson Legal is pleased to announce that Jason Lau has been appointed as our newest partner. This promotion strengthens two of the firm's core practice areas, Litigation and Eldercare Legal, and adds further depth to our services.

Jason earned his Juris Doctor degree in the USA before being admitted to the Supreme Court of California. He has worked in China and is admitted to the Supreme Court of Victoria and the High Court of Australia. He is also completing a Master of Leadership degree. Jason has been with Hutchinson Legal since 2011.

Jason is a respected lawyer, and his broad international experience gives him the ability to readily understand and relate to a variety of diverse backgrounds. He is practical, accessible and compassionate in his approach to clients, and firm in

his advocacy on their behalf. Jason's practice is focussed primarily on general and estate litigation and complex estate planning.

Jason's addition to the partnership strengthens our leadership group and ensures that we can continue to improve Hutchinson Legal's commitment to our clients. With Jason joining current partners Grant Hutchinson and Con Nottas, we are excited about building upon the joint experience of our team to make Hutchinson Legal even stronger in the future.

"Continuity gives us roots;
change gives us branches,
letting us stretch and grow
and reach new heights"

PAULINE R. KEZER

FAST FACTS

18.8m

The approximate number of
registered motor vehicles in
Australia as at 31 January 2017

13,716

The average yearly kilometres
travelled per vehicle

47

The percentage of 1,800
Australian drivers who admitted
to eating takeaway while driving
when polled

Driving and Eating

Many of us don't give a second thought about eating behind the wheel. With a fast paced lifestyle and easy access to convenience food it is quite common to see a fellow driver scoffing down a meal whilst sharing our roads. The question remains though, just how lawful is a meal on the go?

In Victoria, there is currently no law that explicitly prevents someone from eating while operating a motor vehicle. However, as a driver of a motor vehicle there is an onus to maintain proper control of the vehicle. Pursuant to the *Road Safety Road Rules 2007* regulation 297(1), 'A driver must not drive a vehicle unless the driver has proper control of the vehicle.' Therefore, police may decide to charge or issue a traffic infringement notice to a driver who is eating behind the wheel, if the driver does not have proper control of their vehicle.

There was a prime example of this earlier in the year, when it was reported that a teenager in Perth was issued with a traffic infringement notice for 'driving without due care and attention'. It was discovered by other road users, and reported to the police, that the hungry driver was eating a bowl of cereal whilst driving the vehicle. The driver was fined \$300.00 and incurred three demerit points for her actions.

So, although there are no hard and fast rules about eating whilst driving, it is important to ensure that for your safety and the safety of those around you, and to avoid any potential penalties, you have 'proper control' of your vehicle when driving.

If you have any queries in regards to a driving or traffic matter please do not hesitate to contact us.



What happens to your Bitcoin after you die?

In the past 5 years, interest in – and the value of – “cryptocurrencies” such as Bitcoin, Ethereum and others, has skyrocketed. For the adventurous, cryptocurrencies could form a valuable part of their assets, but the unusual way in which they operate provides unique estate planning challenges.

Cryptocurrencies are assets that can be left to your loved ones, just as you do with your house, cars, personal belongings and bank accounts. However, unlike these other better-known assets, cryptocurrency exists only “virtually”, meaning that it only exists in a digital, not physical form.

Furthermore, most cryptocurrencies are not regulated by a traditional institution (like a bank or share registry) that holds the details of investors. Instead, the cryptocurrency is stored in an encrypted digital wallet and is only accessible by a “private key” – a passcode composed of a string of random characters. Without the private key, access to the digital wallet (and the cryptocurrency it holds) is impossible. If you pass away without leaving anyone the private key to your Bitcoin, your Bitcoin will

not be accessible to anyone else, and your loved ones will not inherit your Bitcoin, despite your intentions.

Not only could an Executor or family members of a cryptocurrency investor be unable to access the value of the assets, they frequently will not have knowledge of the existence of the holding, given that most of the records will only be electronic and not necessarily among a Deceased person’s papers.

Therefore, in order to ensure that your cryptocurrency is passed on to your loved ones, it is imperative that you:

- Tell your executor or beneficiaries about the existence of your investments;
- Leave clear instructions about how to access the cryptocurrency; and
- Store the private key in a secure location. You can describe this location in your Will.

If you require any assistance with Estate Planning, please do not hesitate to contact our Eldercare Legal Team on (03) 9870 9870.

Defining “Stepchild”

On 10 May 2017, the Court of Appeal of the Supreme Court of Victoria delivered a judgment on the definition of “stepchild” for the purposes of making a claim on a deceased’s estate under Part IV of the *Administration and Probate Act 1958* (“the Act”).

A claimant’s biological mother was in a de facto relationship with her partner of more than 40 years. When the claimant’s mother passed away, her partner re-partnered. Upon his death he left his entire estate to his new partner. The claimant argued that she was the deceased’s stepchild and is therefore an eligible person entitled to make a claim on his estate.

Examples of those eligible to make a claim on a deceased’s estate under the Act include:

- A spouse or domestic partner of the deceased; or
- A dependent or adult child/stepchild of the deceased (including an adopted child).

The primary judge in this recent decision held that the claimant was eligible under the Act as a de facto “stepchild”. The Court of Appeal agreed with the primary judge’s decision.

The Court held that the definition of “stepchild” includes a de facto stepchild as this is reflective of the plain and ordinary meaning of the words in the context of the Act and society’s recognition of de facto partnerships as being equal to marriage.

New Office

As you may be aware, Hutchinson Legal is again in the same premises as our sister firm ‘YourLawyer’. Both firms are settling in beautifully to our new office at 38 New Street, Ringwood. You’ll notice that the newsletter also has a new design to go with our new brand mark.



PER CON NOTTAS, GRANT HUTCHINSON & JASON LAU

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