



Caveats

Under the *Administration and Probate Act 1958* (as amended) any person may lodge at the Supreme Court a Caveat against the making of a Grant of Representation issuing in respect of an Estate. Such Caveat will lapse after six (6) months following lodgment and it may be renewed by a fresh Caveat.

A person lodging a Caveat must have an interest to challenge the validity of the Will and the grounds for having interest would include:-

- incapacity of a deceased;
- undue influence placed upon the Will maker;
- fraud in relation to the Will;
- suspicious circumstances in relation to the making of the Will; and
- existence of a later Will.

The Act requires the Registrar of Probates to notify a legal personal representative of the lodgment of the Caveat and also give notice to the person lodging the Caveat that he/she has a certain time to provide in proper form, the grounds of the Caveat. If the Caveator does not provide such grounds within the prescribed time, the Caveat will lapse and the Registrar will then proceed in processing the Application for a Grant.

It is important to note that the Caveat process will enable a person to stop a Grant of Representation being made, and providing the chance to examine the circumstances relating to validity of Will. When the investigation has been completed, a decision can be made whether or not to proceed with the Caveat process. Another reason for lodging a Caveat is to begin a contested Will matter.

Pearce Webster Dugdales are well qualified to advise on Caveat procedure.

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