



HULL & HULL LLP

Barristers and Solicitors

Trust Experience™

Preserving ODSP Benefits

Drafting solicitors should be well aware of the issue of preserving the entitlements of beneficiaries who receive benefits under the Ontario Disability Support Program and other government benefits that may be affected by receipt of a bequest provided under a Last Will and Testament.

Like the former *Family Benefits Act*, the *Ontario Disability Support Program Act, 1997*, SO 1997, c 25, Sched B (the “**ODSP Act**”) refers to the extent of assets that an individual can hold and receive without affecting the ODSP benefits that he or she receives.

Late last year, the regulations to the ODSP Act were amended to significantly increase the quantum of assets that an ODSP recipient may hold while maintaining eligibility to benefits. As of September 1, 2017, to remain eligible for ODSP, a recipient may have a maximum of:

- \$40,000 worth of assets for a single person (formerly \$5,000); or
- \$50,000 worth of assets for a couple if in a spousal relationship (formerly \$7,500).

Similarly, the quantum of payments that an ODSP recipient may receive from a trust, life insurance policy, or other gift during any 12-month period increased from \$6,000 to \$10,000, which amount will not be included in the calculation of the individual’s income and, accordingly, will not affect ODSP eligibility. Any payments to an ODSP recipient in excess of \$10,000 will be included in calculations of the individual’s income and may reduce ODSP benefits.

These recent changes to the regulations of the ODSP Act have made it easier for people with disabilities to qualify for and maintain benefits. It is important that drafting solicitors are aware of any updates like those recently made to the ODSP Act and its regulations that may affect the entitlements of beneficiaries identified within the estate planning documents that they prepare and the related measures that may be required to preserve those entitlements.