

**(1) Application of Insurance
Policy in Family Maintenance
and
(2) Will & Law of Succession And
their Relationship with
Insurance Law**

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Application of Insurance Policy in Family Maintenance

A brief introduction of the divorce proceeding in Hong Kong

◆ 2 stages

Decree Nisi \leftrightarrow Decree Absolute

◆ 5 grounds for divorce

Matrimonial Causes Ordinance (Cap.179)

1. Adultery
2. Unreasonable behaviour
3. One year's separation and consent
4. Two year's separation without consent
5. Desertion (1 year)

Maintenance for spouse and child after divorce

- ◆ Section 3 and 5 Matrimonial Proceedings and Property Ordinance (“MPPO”) “Maintenance Pending Suit”
- ◆ Section 8 MPPO “Periodical Payments”, “Secured Periodical Payments” and “Lump Sum Payments”

Matrimonial Property

- ◆ Section 6 of MPPO property adjustment order
- ◆ White v. White [2001] 1 All ER1 equality for wives in the division of matrimonial property

Interest on Arrears of Maintenance

- ◆ Judgment creditor is entitled to interest in respect of arrears of maintenance
- ◆ Currently 12.5% subject to change from time to time

Warrant of Arrest

- ◆ Judgment Summons – Procedure for Judgment Creditor to enforce the maintenance order
- ◆ Failure to comply with order may amount to contempt of court and the Court may issue a warrant of arrest prohibiting Judgment Debtor from leaving HK

How does divorce affect Insurance Policy

- ◆ Question 1: Husband (H) took out a life policy on himself and name Wife (W) as beneficiary. Divorce, what will happen?
- ◆ Question 2: H took out a life policy on himself and name Son (S) as beneficiary. Divorce, what will happen?
- ◆ Question 3: H took out a life policy on W's life and name W as beneficiary. Divorce, what will happen?

How does divorce affect Insurance Policy (Con't)

- ◆ Question 4: H Took out a life policy on W's life and name himself as beneficiary. Divorce, what will happen?
- ◆ Question 5: H took out a life policy on W's life and name child as beneficiary. Divorce, what will happen?
- ◆ Question 6: H took out a life policy on C's life and name himself as beneficiary. Divorce, what will happen?

Use of a life policy

- ◆ For maintenance of wife and child
- ◆ For education of child
- ◆ To secure monthly maintenance upon death of the paying party
- ◆ To secure property order with mortgage repayments

Will and Law of Succession

遺囑及繼承法

What Happen If Died Intestate ? 如果沒有立遺囑，死後會怎樣？

Law of Succession 繼承法

Relative Surviving	Other Relatives	Entitlement
1. Spouse	No issue, or parent or brother or sister of the whole blood or issue of such a brother sister	All to spouse
2. Spouse and issue	Other relatives immaterial	Spouse takes \$500,000 and half of the residue; the other half is held on statutory trusts for issue
3. Spouse and parent or brother or sister of the whole blood or issue of such brother or sister	No issue	Spouse takes \$1,000,000 and half of the residue; the other half is held for parent(s) or on statutory trusts for such brothers or sisters
4. Issue	No spouse	All to issue on statutory trusts
5. Parent(s)	No spouse, no issue	All to parent(s)
6. Brothers and sisters of the whole blood	No spouse, no issue, no parent	All to such brothers and sisters on statutory trusts
7. Brothers and sisters of the half blood	No spouse, no issue, no parent, no brother or sister of the whole blood	All to such brothers and sisters on statutory trusts
8. Grandparent(s)	None of the above	All to grandparent(s)
9. Uncles and aunts of the whole blood	None of the above	All to such uncles and aunts on statutory trusts
10. Uncles and aunts of the half blood	None of the above	All to such uncles and aunts on
11. None of the above relatives		All to Hong Kong Government as <i>bona vacantia</i>

Who should make a Will

誰應該立遺囑

- Person with young children 有年幼子女之人
- Married couple & without children 已婚而無子女之人
- Remarried person with children borne with previous spouse 有不同配偶及不同配偶所生的子女之人
- Person travel outside Hong Kong frequently with spouse 時常與配偶一同外遊之人

(Con't) Who should make a Will

(續)誰應該立遺囑

- Person without any children or relative
無親無故之人
- Unmarried person 未婚之人
- Person with special testamentary intention
有特別意願之人
- Person who own property outside Hong Kong 國外有財產物業之人

What are the contents of a Will

「平安書」內容

[如有疑問請與本行溫小姐聯絡（電話: 2526 7666）。]

TESTATOR 立「平安書」人

NAME : _____ (_____)

姓名	Surname 姓	Given Name 名	(In Chinese) 中文
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SEX : _____
性別

PASSPORT/H.K.I.D. NO. : _____ (Photocopy is enclosed)
護照 / 香港身份証號碼 (附上影印本)

OCCUPATION : _____ DATE OF BIRTH : _____
職業 出生日期

RESIDENTIAL ADDRESS 地址 : _____

MARRIAGE STATUS : Single/ Married/Divorced (Please delete whichever inapplicable)
婚姻狀況 單身 / 已婚 / 離婚 (請刪去不適用者)

EXECUTOR AND TRUSTEE

執行人及信託人

NAME : _____ (_____)

姓名	Surname 姓	Given Name 名	(In Chinese) 中文
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SEX : _____

性別

PASSPORT/H.K.I.D. NO. : _____ (Photocopy is enclosed)

護照 / 香港身份証號碼

(附上影印本)

OCCUPATION : _____

職業

DATE OF BIRTH : _____

出生日期

RESIDENTIAL ADDRESS 地址 : _____

RELATIONSHIP WITH TESTATOR : _____

與立「平安書」人之關係

(Copy Right Reserved)

BENEFICIARY

受益人

A) NAME : _____ (_____)

姓名 Surname 姓 Given Name 名 (In Chinese) 中文

Sex : _____

性別

Passport/H.K.I.D. No. : _____

護照 / 香港身份證號碼

Date of Birth : _____

出生日期

Relationship : _____

關係

Residential Address 地址 : _____

% of Estate : _____

財產分配百分比

(Copy Right Reserved)

INFANT BENEFICIARY

未成年受益人
(即十八歲以下)

NAME : _____ (_____)

姓名

Surname

Given Name

(In Chinese)

姓

名

中文

SEX : _____

性別

Passport/Birth Certificate No. : _____

護照 / 出生證明書號碼

Date of Birth: _____

出生日期

Relationship : _____

關係

Residential Address 地址 : _____

If the Beneficiary is under the age of 18, we suggest that you should appoint a guardian.

如受益人年齡為18歲以下，我們提議你委任一位監護人。

GUARDIAN

監護人

NAME : _____ (_____)

姓名 Surname 姓 Given Name 名 (In Chinese) 中文

SEX : _____

性別

PASSPORT/H.K.I.D. NO. : _____ (Photocopy is enclosed)

護照 / 香港身份證號碼 (附上影印本)

RELATIONSHIP : _____

關係

RESIDENTIAL ADDRESS 地址 : _____

Note : Please ensure she/he is willing to act

備註：請確保她 / 他願意成為監護人

(Copy Right Reserved)

SIGNATURE

簽署

DATE

日期

CONTACT TEL. NO.

聯絡電話

Law of Succession

繼承法

- Probate 遺囑檢定書
- Letters of Administration 遺產承辦書

When to Write a Will

訂定遺囑的最好時間

- When you are healthy, physically and mentally 身體及精神都良好的時候

Sharp v. Adam

Adam – successful – stud farm – multiple sclerosis (93) – cannot speak/write – spelling board – nodding – shaking his head – rolling eyes, blinking – dies in Aug 2002

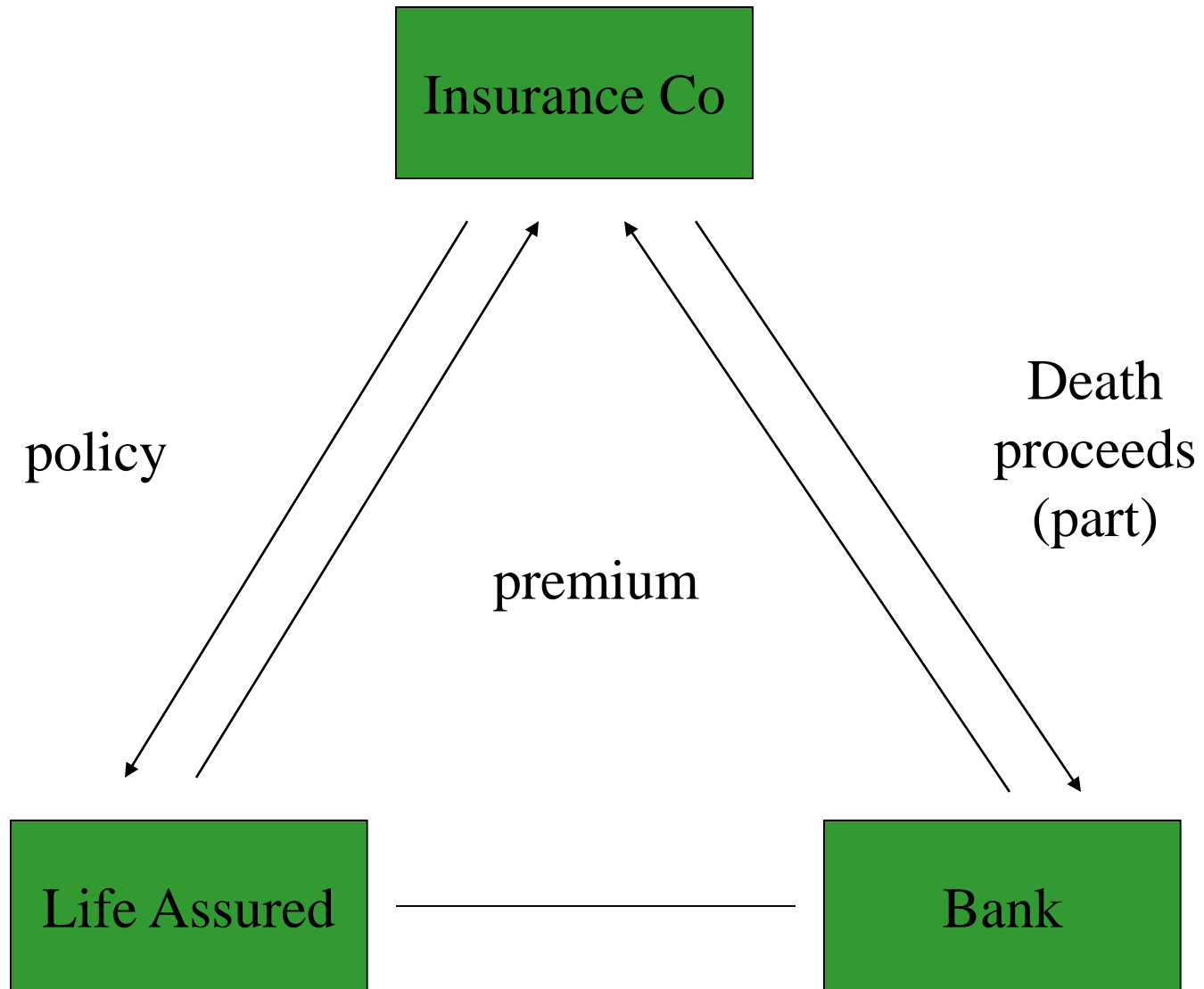
2 daughters – mother divorced (92) – 3/2001 – change Will – good friend – solicitor - appeal

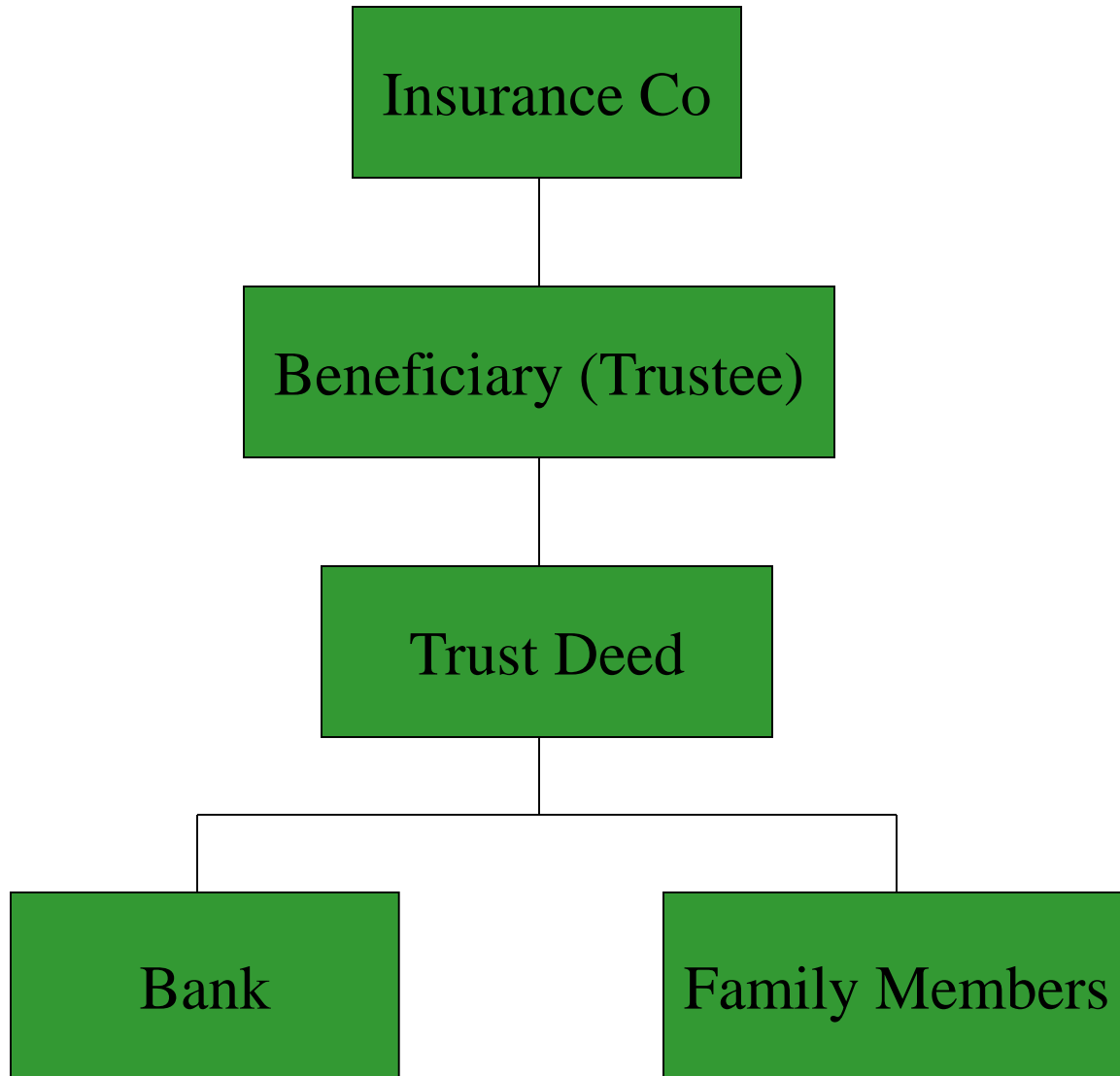
Tam Mei Kam v. HSBC
International Trustee Ltd
(Anita Mui's case)

- Write a Will and a Trust on the same day.
- 18 days of Trial.

Investment – Link Policy

How to make an investment-link policy work?





Trustee

- Independence and
- Impartiality

Does one need a Will where a trustee is appointed?

- Smaller, Independent Trustee Company
- Not related to Bank or Insurance Company

Gold Haven Trust Co. Ltd.

豐銀信託有限公司

Q & A

問題討論



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PLEASE NOTE

The law and procedure on this subject are very specialised. This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

請注意

本題目之法律及程序十分專門。此文章只屬一般性之解釋，供你參考，而不應被依賴為關於任何特定事件之法律意見。如需法律意見，請與我所律師聯絡。

Christine M. Koo & Ip, Solicitors & Notaries LLP
顧張文菊、葉成慶律師事務所 有限法律責任合夥