

CLAIMS UNDER THE INHERITANCE ACT 1975

It is advisable to prepare a Will to deal with the distribution of your estate on your death. However, even if you prepare a valid Will, it is possible under the terms of the Inheritance (Provision for Family and Dependents) Act 1975 ('the Act') for certain people to make a claim against your estate after your death.

Who can make a claim?

The people who have the right to claim are: -

- Your spouse or civil partner;
- Your former spouse or civil partner, provided they have not remarried or entered into a subsequent civil partnership;
- A person with whom you cohabited for at least two years before your death as husband and wife or as civil partners;
- Your child or children, even if they are adults at the date of your death;
- A person who was treated as a child of the family by you and your spouse/civil partner; and
- Any person who was either partially or wholly financially maintained by you immediately before your death.

Grounds for claim

Once this has been established, to be successful in their claim the person ("the applicant") must show that your Will fails to make "reasonable financial provision" for them.

What is 'reasonable financial provision'?

It depends on the status of the applicant.

- If your spouse/civil partner makes a claim on your estate, it means such financial provision as it would be reasonable in all the circumstances for a spouse/civil partner to receive, whether it is needed for their maintenance or not. This means their claim is not limited to just what they need for their day to day living expenses.
- In the case of any other applicant, it means such financial provision as it would be reasonable in all the circumstances for the applicant to receive for his or her maintenance. This is a lower standard than the one that applies to spouses and civil partners; any financial award will be designed to cover day to day expenses only.

What factors will the court consider?

In making any decision, the court will consider the following issues: -

- The financial resources of the applicant, their current and likely future financial needs;
- The financial resources and needs of any other possible applicants;
- The financial resources and needs of the named beneficiaries of your estate;
- The obligations and responsibilities you had towards any applicants under the Act or towards the named beneficiaries of your estate;
- The size and nature of your estate;
- Any physical or mental disability of any applicant under the Act or any named beneficiary of your estate; and
- Any other relevant matter, including the conduct of the applicant.

What might the outcome be?

If the applicant is successful in their claim the court may make an order requiring a different distribution of your estate from that stated in your Will. This order could take many forms, such as the court providing the applicant with either an absolute interest in your estate (e.g. a cash sum, a property etc.), or creating a trust for the applicant (e.g. the right to live in a property, but they do not become the legal owner).

The result could be that the beneficiaries you have named in your Will may receive less from your estate than you had anticipated.

How can GL Law help you?

We have specialist lawyers who will take time to get to know you in order to provide you with advice tailored to your specific needs and wishes.

Full and transparent information about our fees structure will be provided at the outset, and the basis of our charging agreed before we begin work.

For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email hello@gl.law

The content of this guide is intended for general information purposes only and shall not be deemed to be or constitute legal advice.