

Disputes - A brief outline of the Inheritance (Provision for Family and Dependants) Act 1975



Under the Inheritance (Provision for Family and Dependants) Act 1975 a claim can be made by a person to either become a Beneficiary, or a Greater Beneficiary, of the estate of the deceased.

The object of the Act is to bring about a redistribution of the deceased's estate between the Beneficiaries and the applicant.

These cases are settled on the ground that the share of the deceased's estate left by their Will or under the law relating to intestacy does not make reasonable financial provision for the applicant.

Who is entitled to claim

Persons entitled to make a claim under the Act are:

- the spouse or civil partner of the deceased;
- a former spouse or former civil partner of the deceased who has not formed a subsequent marriage or civil partnership;
- a child of the deceased;
- any person (not being a child of the deceased) who, in the case of any marriage or civil partnership to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage or civil partnership (a step child);
- any person who immediately before the death of the deceased was being maintained, either wholly or partly, by the deceased.

The application must be made within six months of the grant of probate or letters of administration.

This is a strict time limit although the Court does have the discretionary power to extend the time limit.

What is Reasonable Financial Provision

The meaning of 'reasonable financial provision' will differ depending on the status of the applicant.

If the applicant is a spouse of the deceased the test is: such financial provision as it would be reasonable in all the circumstances of the case for a husband or wife to receive, whether or not that provision is required for their maintenance.

In the case of any other applicant, including a former spouse of the deceased, the test is: such financial provision as it would be reasonable in all the circumstances of the case to receive for their maintenance.

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However

Clear Accountancy and Tax is licensed to carry out non-contentious probate work. If, in the course of the work, it becomes clear that there is going to be a claim made against the estate or that there is any other form of disagreement concerning the estate then we will be unable to act in that matter.

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