

Inheritance Act Claims

Anyone who is financially dependent on you at the time of your death may have a claim against your estate if you have left nothing to them in your Will or made any other form of financial provision for them. Those who might have a claim include:

- An ex-spouse who is still receiving maintenance from you
- Children from a previous relationship while receiving maintenance from you via the Child Support Agency, voluntarily or via a Court Order
- Any children who are living with you at present
- A spouse from whom you are separated even though there has not yet been a divorce
- Your current spouse living with you
- Anyone you have been living with for more than two years
- Any other person whom you regularly help out financially

It is entirely your decision. You may decide that you don't want to make any provision at all. You may be quite content that there is a risk they could make an application to the Court for provision from your estate. In that event, the Court would have to sort out what is to happen to your property and other assets between your financial dependants and those to whom you have left your estate in your Will. This could be very stressful and upsetting for those to whom you have left your estate. In addition, the legal costs involved are likely to have to be paid from your estate so there will be less to be divided up for everyone.

Sometimes a better way forward is to make some provision in your Will for those who will be financially dependent upon you at the time of your death.

Alternatively you could make other arrangements for your financial dependants quite apart from what your will may say. For instance:

- Pension schemes sometimes automatically pay out a pension to any dependent children and sometimes to a dependent adult regardless of whether or not you have been married to that person. Sometimes there will be automatic provision for a wife from whom you are separated but not yet divorced. You should check the terms of your pension scheme to see if there is any helpful provision there.
- You may find that your employers automatically pay out a lump sum as "death in service benefit". Often you can ask your employers to pay out that sum to specific people. You may then be able to ask them to pay out some of it direct to any children and some of it to dependent adults, including a co-habitee or an ex-spouse to whom you pay maintenance. Sometimes any Court Order made at the time of divorce will require you to nominate an ex-spouse to receive some of your death in service benefit and that will bind your estate as well as yourself personally.

If the two suggestions above do not help and you do not wish your will to provide for other financial dependants, you could consider taking out life assurance to pay out sums direct to them. It would be sensible to

write these policies in trust to avoid the monies forming part of your estate. Those monies will not then attract inheritance tax, if your estate is taxable, and it would be available to your dependants immediately after your death, without waiting for probate to be granted. If you want to go down this road you will need to talk to an independent financial adviser. We can recommend someone to you if you have no existing adviser.

For further information please contact Derek Bellew by telephone or at dbellew@vwl.co.uk.



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This publication is for guidance only. Reliance should not be placed upon it and nor should action be taken, without obtaining advice in respect of the specific circumstances applicable. We will be pleased to provide such advice or assistance.

For further information please contact us:

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