



A Practical Guide to Inheritance Act Claims

Under English law it is acknowledged that testators have complete freedom to leave their estate to whoever they wish. However, there is an exception to this under the Inheritance (Provision for Family and Dependents) Act 1975 (the “Inheritance Act”) which recognises that certain categories of people are entitled to provision from the Deceased’s estate where reasonable financial provision has not been made for them.

We hope the following questions and answers will make things clear for you.

Q. What is the Inheritance Act?

The Inheritance Act allows the Court to depart from the provisions of the Deceased’s Will, or the normal rules of intestacy, where they do not make reasonable financial provision for certain qualifying individuals. What is reasonable financial provision will depend upon the size and nature of the Deceased’s estate, amongst other factors.

Q. Does the Inheritance Act only apply to money?

The Inheritance Act covers all of the Deceased’s assets, monetary or otherwise, with the exception of certain types of assets; for example, those held jointly with another person, or those held on Trust.

Q. Who can make an Inheritance Act claim?

To make a claim under the Inheritance Act, the Deceased must have been domiciled in either England or Wales at the time of their death and you must fall within one of the classes listed below:

- The spouse or civil partner of the Deceased
- The former spouse or former civil partner of the Deceased
- Cohabitant who lived with the Deceased for a minimum period of two years immediately before their death as their husband or wife
- A child of the Deceased
- A person who was treated as a child of the Deceased
- Someone who was maintained by the Deceased immediately before their death

Q. Are there time limits to making an Inheritance Act claim?

A claim under the Inheritance Act must be issued at court within six months from the date of the grant of representation. Claims can only be brought outside of the six-month time limit in exceptional circumstances and with the permission of the Court.

Q. What are the costs relating to an Inheritance Act claim?

The cost of an Inheritance Act claim depends upon a number of factors, such as how much work is involved in its resolution and the stance of the other party.

A claim that is amicably settled within a few months, (as is often possible) will have significantly lower costs than a claim which is ultimately determined by a Court.

Q. How will the costs of my claim be funded?

We act for clients on a private fee-paying basis. Legal aid is not available for this type of work.

It is not correct to assume that your costs will be paid out of the Deceased’s estate, you may have to bear your own costs. Recoverability of your legal costs depends upon what is ultimately agreed between the parties or decided by the court.

If court proceedings are issued, the payment of costs is at the discretion of the Court. However, the starting position is that the losing party bears the costs of the winning party as well as their own.

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 **0330 311 0885**  **willdisputes@hewitsons.com**

 **Cambridge Office**, Shakespeare House, 42 Newmarket Road, Cambridge, England, CB5 8EP

 **London Office**, Kildare House, 3 Dorset Rise, London, England, EC4Y 8EN

 **Milton Keynes Office**, Exchange House, 482 Midsummer Boulevard, Central Milton Keynes, England, MK9 2EA

 **Northampton Office**, Elgin House, Billing Road, Northampton, England, NN1 5AU