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In this issue...

- Woman who killed husband inherits estate
- Surge in probate applications expected
- HMRC alters guidance on Pre-Owned Assets Charge
- Delusional beliefs invalidate Will
- Returning to the workplace after lockdown
- Hewitsons is hosting an online seminar series



Woman who killed husband inherits estate

The High Court recently considered whether Mrs Amos, a woman who accidentally killed her husband in a car accident last year, should be able to inherit his property.

Sandra Amos accidentally crashed into a queue of stationary vehicles in January 2019. Her husband, Royston Amos, died later from injuries sustained in the crash. She admitted causing death by careless driving and received a suspended prison sentence.

Mrs Amos was due to receive her husband's share of their matrimonial home in addition to the residue of his estate under the terms of his Will. However, Mr Amos' daughter from his first marriage challenged this using the UK Forfeiture Act 1982 ('the 1982 act').

The 1982 act prevents people benefiting from the death of a person they have unlawfully killed. It has previously been used to stop people who have murdered their family members inheriting their estates.

The 1982 act allows the courts to waive the forfeiture if it considers that the offender's conduct, and the circumstances of the case, warrant it.

In this case, the court heard that the accident was not deliberate or intentional and happened after Mrs Amos drove for an unexpectedly long period. The court therefore chose to use its discretion and waive the forfeiture rule. Judge Jarman said that denying Mrs Amos her inheritance would be 'significantly out of proportion' to her culpability.

If you would like to discuss any of the issues raised in this case or would like general advice on Wills, estate planning or estate administration, please contact a member of our team below.

Kerri Woodrow on 01604 463350 or [click here](#) to email Kerri.
Bernadette O'Reilly on 07867 907081 or [click here](#) to email Bernadette.



Surge in probate applications expected

HM Courts and Tribunal Service ('HMTCS'), the government department which administers the probate system, has reported a halving in probate applications since COVID-19 lockdown measures were introduced in March 2020. It is thought that this is due to solicitors and individuals struggling to access physical Wills or paperwork belonging to the deceased.

HMCTS also warned that when lockdown is eased, there is likely to be a surge in demand for its services. This will only be exacerbated by the increase in deaths from COVID-19. The government is currently considering recruiting additional staff.

If you are named as an executor in the Will of someone who has recently died and would like assistance in obtaining a grant of probate ahead of the rush, our experienced team would be happy to help. To get in contact please contact one of our Solicitors below.

Ciara Wanstall on 01604 463101 [click here](#) to email Ciara.
Alexandra Francis on 01223 447422 or [click here](#) to email Alexandra.



HMRC alters guidance on Pre-Owned Assets Charge

HM Revenue & Customs has recently updated its guidance on the Pre-Owned Assets Charge (POAC). This is an income tax charge which was introduced to target inheritance tax ('IHT') avoidances schemes known as home loan or double trust schemes.

Previously, HMRC policy was such that both IHT and the POAC would arise on such schemes. However, in a significant policy shift, the new HMRC guidance now indicates that in certain circumstances, the POAC will not apply.

The change could have significant implications for anyone who entered into such schemes as it is possible that income tax paid under the POAC may be refunded with interest.

If you think you may be affected or would like general advice on IHT and estate planning, please contact a member of our team.

Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn.
Katherine Hague on 07741 311460 or [click here](#) to email Katherine.



Delusional beliefs invalidate Will

In order for a Will to be valid, the person making it must have sufficient mental capacity at the time they make it. A Victorian case, *Banks v Goodfellow*, defines mental capacity in detail and states that the person making the Will must have 'no disorder of the mind that perverts their sense of right'.

A recent case in the High Court dealt with this issue.

Jean Clitheroe died in 2017 leaving a Will which cut out her daughter, Susan Bond. Mrs Clitheroe left detailed letters to accompany her Will in which she described Susan as a 'spendthrift' and 'shopaholic' who was likely to waste her inheritance.

Susan challenged the Will on the grounds that her mother did not have testamentary capacity when she made it, arguing that she suffered from 'insane delusions' stemming from depression and grief triggered by the death of one of her children.

The court heard that Mrs Clitheroe's solicitor should have taken note of the fact that she was bedridden and sought a medical opinion about her mental capacity before drafting the Will. This is known as the 'Golden Rule'.

The medical evidence submitted in the case was divided, but the court ultimately ruled that Mrs Clitheroe's Will was invalid on the grounds of insufficient mental capacity. Her estate will therefore be split equally between Susan and her brother John.

Having a professionally drafted and executed Will is the best way to make sure that your Will is valid and benefits the people that you intend. If you would like to make a Will or are thinking about reviewing your existing Will please contact a member of our team below.

Rachel Hawkins on 07741 311091 or [click here](#) to email Rachel.
Kelly Wardell on 01223 532 722 or [click here](#) to email Kelly.



Returning to the workplace after lockdown:

Charlotte Herrington from our employment team has recently put together some helpful guidance about returning to work after the lockdown, including a list of preparatory steps and key considerations for employers. You can read more by [clicking here](#).



Hewitsons is hosting an online seminar series

In light of the Coronavirus situation and Government guidance and communication, we have taken the decision to reschedule what would have been our Spring seminar series and deliver them online.

Please [click here](#) to view our current online seminars. Should you be interested in registering your attendance, please contact our events team - events@hewitsons.com.

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