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## **A SHORT GUIDE TO INHERITANCE**

### **ACT CLAIMS**

### **What is an inheritance claim?**

Inheritance claims are made in cases where reasonable financial provision has not been made after the death of an individual. The aim of the Inheritance Act 1975 is to make “reasonable financial provision” available for those who:

- Have not inherited as a result of intestacy (where there is no will)
- Have been left out of the will entirely
- Have not been left as much as they need

### **Who can make an inheritance claim?**

- A spouse or civil partner of the deceased
- A former spouse or civil partner of the deceased who has not remarried or entered into a further civil partnership
- Living with the deceased for at least 2 years before their death
- Children of the deceased
- Treated as the deceased child (for example; adopted, foster or step child)
- Being maintained by the deceased

### **What is reasonable financial provision and what should be awarded?**

The first and key question to ask in all Inheritance claims is “has the deceased’s estate made reasonable and financial provision for the class of the potential applicant by the standard applicable to that applicant?”

There are two standards of provision depending on the class/status of the claimant:

- For a claimant who is the spouse of the deceased, the provision required need not be for the claimant’s maintenance but is based on what it is reasonable for the claimant to receive, whether or not it is for that person’s maintenance. Broadly speaking, spouses, civil partners and some former spouses and civil partners attract this higher, non-maintenance standard of provision.
- In the case of any other applicant the standard is “such financial provision as it would be reasonable in all the circumstances of the case for the applicant to receive for his maintenance”. This, the maintenance standard, is obviously a lower standard than the one that applies to spouses and civil partners.

### **What orders can the Court make?**

The Inheritance Act 1975 provides the Court with a breadth of possible ways of providing reasonable financial provision for a claimant, including:

- A capital sum.
- Income.
- A transfer of property.
- Deferred payments.
- An amount settled on trust.
- A variation of an ante-nuptial or post-nuptial settlement (and equivalent settlements relating to civil partnerships).
- An option to purchase an asset of the estate.

**For specialist advice in respect of an inheritance act claim, please speak to one of our family law experts today by contacting our Brighton office on 01273 696962 or London office on 020 3358 0058.**

**Alternatively, you can request a callback, or email us at [info@arlingsworth.com](mailto:info@arlingsworth.com).**

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*Please note that the above guide only provides a very brief and generalistic overview of the law and procedure pertaining to inheritance claims. The guide should not be relied upon in any way as constituting formal legal advice, as it has not been tailored to the specific facts of an individual's case.*