

## Can I bring a claim under the Inheritance Act 1975 (Provision for Family and Dependants) as the spouse of the deceased?



The Inheritance (Provision for Family and Dependants) Act 1975 (the “1975 Act”) allows a will (or the intestacy rules) to be disputed on the basis that it fails to adequately provide for certain categories of people, known as eligible claimants. The principle behind the 1975 Act is that certain duties and responsibilities are owed that should be honoured even after death. One group entitled to bring an inheritance claim under the 1975 Act is surviving husbands, wives and civil partners. Importantly, where a claim is made by a spouse (or civil partner), the court will look beyond their basic needs when determining what would be reasonable for them to receive from the estate. Unlike for other applicants, the court may make an award over and above what the spouse needs for their general maintenance. As a result, any award is likely to be far more than that received by other applicants (such as dependants or children), whose assessment will be based on what they need for their maintenance. The 1975 Act sets out a number of factors which will be taken into account when assessing a claim. These include:

- the financial resources and needs of the claimant;
- the financial resources and needs of any beneficiary;
- any physical or mental disability of the claimant or any beneficiary;
- any obligations and responsibilities which the deceased has towards the claimant; and
- the size of the net estate.

However, an additional factor that the court is required to take into account for claims by spouses and civil partners is the provision they would expect to receive following divorce. It is important to act quickly if you think you may be eligible to make a claim under the 1975 Act as important time limits apply.



If you would like to discuss making a claim, please contact our [inheritance disputes team](#). We can also discuss the possible options for funding your claim and will, in appropriate cases, be able to offer a “no win, no fee” arrangement or a fixed fee.



[Phil Youdan](#)

Partner