

## **Administration of Estates**

### **Claims against the estate of a deceased person**

#### ***Claims by relatives or dependants etc.***

The Inheritance (Provision for Family & Dependents) Act 1975 allows a spouse, civil partner, child, dependant or cohabitee of a deceased person to claim that they have not been adequately provided for by the deceased's Will (or by the Rules of Intestacy, where there is no Will). A cohabitee has to have lived with the deceased as "husband and wife" or "civil partners" for two years to qualify.

A claim must normally be made within six months of the issue of the grant of representation to the estate.

If a claim is successful the personal representatives (PR's) must pay claimants either out of the estate (if it has not yet been distributed) or out of their own pockets (if it has already been distributed).

A prudent PR will, therefore, wait until six months after the issue of the grant before distributing to see if there are any claims and to make sure that they will not be personally out of pocket.

Where all the PRs are friends or relatives of the deceased and they feel that the risk of claims is small, then may decide to distribute before the six months period has expired. However, where a Solicitor or other professional person is a PR the estate will not normally be distributed until six months after the grant.

#### ***Claims by creditors – Statutory Advertisements***

PR's are liable for a deceased's debts up to the total value of the estate. Normally the debts are paid out of the estate. There is, however, a danger that a debt may come to light after the PR's have distributed the estate. In that case the PR's might have to pay that debt out of their own pockets. They can guard against this risk by advertising for creditors in the London Gazette and a local newspaper and then waiting for two months before distributing. If a debt later comes to light, the PR's are not personally liable (although the creditors can still claim against the beneficiaries).

If the PRs are all friends or relatives of the deceased, they may decide to do without Statutory Advertisements and take the risk of unknown claims. But where a Solicitor or other professional person is a PR, Statutory Advertisements will be essential to protect them from personal risk.