

## The Trustees Powers Act 2014

The Trustees Powers Act 2014 came into force 1st October 2014 having received Royal Assent in May this year. The changes apply to deaths on or after 1 October 2014.

### What are the key changes?

#### 1. Changes to the Intestacy Rules for Spouses and Civil Partners

Where a person dies without having left a valid will, they are said to die 'intestate' and the fall back statutory rules of intestacy determine how their estate will be distributed.

- (a) Where there is a death on or after 1st October 2014 and where the sole surviving relative is a spouse or civil partner, he or she will now inherit the whole estate (instead of just a share of it, with the remainder going to parents and siblings as was the case prior to 1st October 2014).
- (b) Where there is a survival by children of the deceased, a fixed index linked sum (currently the first £250,000) will go to the spouse or civil partner (as will all the deceased's chattels), with the residue now being divided as to 50% to the spouse or civil partner outright, and the other 50% to the children (in equal shares).

Previously, the residue to the spouse or civil partner was not given to them outright – but only for life, so the share would revert to the deceased's children on the death of the spouse/civil partner. This is a significant change, especially for second marriages, where the whole of the residue will no longer be ring fenced for the ultimate benefit the deceased's children.

#### 2. Changes to the Inheritance (Provision for Family and Dependants) Act 1975

Under the 1975 Act certain categories of person can bring a claim for reasonable financial provision from a deceased's estate, (irrespective of what their will says or how the law dictates the estate should be distributed on intestacy). From 1st October 2014 there are extensions to the definition of those categories of person.

- (a) There is a change to the definition of a "Child of the Family", to bring it in line with the realities of modern day life. From 1 October 2014 a "family" no longer must comprise of a marriage or civil partnership.

It can now be only one other person (apart from the child) i.e. a single parent or a grandparent, grandparents, or any other person(s) which may not have met the restrictive definition of what a 'family' is previously.

[Continued on next page ►](#)

## The Trustees Powers Act 2014 - continued

(b) The new legislation also brings changes to the definition of a person who was being 'maintained' by the Deceased – to make it clear that any arrangements of a commercial nature are excluded. Further, it is no longer a requirement that the deceased had to have 'assumed responsibility' for the maintenance of a claimant during their lifetime (as was previously the case). It is thought that this will make it easier for cohabitants to bring claims on the basis that there was an interdependence between two people which made it cheaper for two people to live together, rather than one living alone.

Parliament did not however take the opportunity to specifically extend the definition of 'cohabitant' who may bring a claim under a separate category of the Act, to cohabitants who have cohabited for less than 2 years (continuously). Such an extension proved to be too controversial.

(c) Prior to 1 October 2014, there had to be a Grant of Representation before a claim could be issued under the Act. Personal Representatives were therefore (to some extent) at liberty to 'drag their feet' as a defensive tactic and delay taking a grant in the hope that a claim would 'go away' or the person making the claim would themselves die. That option is no longer available and the Act has been amended to make clear that the absence of a grant will not prevent a claim being made under the Act.

It is still the case however that claims should be issued within 6 months of the grant, as the courts (in only some circumstances) have the discretion to allow claims to be brought out of time in certain (limited) cases. For further information regarding the rules of intestacy and intestate estates, please consult a member of our Tax Trust & Estates Team on the contact information below.