Inheritance Act Claims 4th Edition

Sidney Ross Ten Old Square



With a foreword by The Rt Hon.Lord Justice Henderson, Inheritance Act Claims covers the operation of the Act in circumstances where it is claimed that the dispositions of the deceased's estate, whether by will or under the law of intestacy, failed to make reasonable financial provision for the claimant and explains the law, practice and procedure. It is designed to help the practitioner both to identify and assemble the essential facts of a potential claim under the Inheritance (Provision for Family and Dependants) Act 1975 at the start of the litigation, and to arrive at an informed view of the prospects of success in making or resisting an application under the 1975 Act. The book enables the practitioner to assess the merits of a potential claim along with its cost implications.

There has been a substantial amount of new case law since the publication of the third edition and the 1975 Act has been amended by section 6 and Schedules 2 and 3 of the Inheritance and Trustees' Powers Act 2014. Other relevant legislation includes the Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011 and the Marriage (Same-Sex Couples) Act 2013.

New to this edition:

- Developments in case law, the CPR Part 36 regime, and methods of alternative dispute resolution are covered in depth
- Detailed analysis of *llott v Mitson*
- Examination of the procedural changes arising from the amendment to section 4 of the 1975 Act which enables applications to be made before the issue of a grant of representation
- Revision of the section on eligibility to take account of the amended definitions of persons treated as children of the family and persons being wholly or partly maintained by the deceased

- Coverage of recent case law on whether pension benefits form part of the net estate, donatio mortis causa, anti-avoidance provisions, interim applications, variation of periodical payments orders and orders barring claims under the Act following financial remedy proceedings
- An expanded survey of the case law on the application of the "notional divorce" criterion, including reference to section 3(2) of the Act as amended
- Detailed analysis of the importance of conduct in claims by all classes of claimant
- Analysis of the case-law identifying the most important factors in claims by adult children
- Overview of other claims which may be brought additionally or alternatively to 1975 Act claims, including claims based on common-intention constructive trusts, proprietary estoppels, probate claims and claims for rectification or construction of wills
- Discussion of recent changes to the CPR Part 36 regime, developments in methods of alternative dispute resolution, costs implications of refusal to engage in ADR and sanctions for noncompliance with directions and rules of court
- Changes to the benefits system and the effect of the phased replacement of some means-tested benefits by Universal Credit

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