

## PERSONAL LEGAL SERVICES

Family and Matrimonial  
 Wills and Probate  
 Residential Property  
 Planning Services  
 Employment  
 Dispute Resolution  
 Personal Injury

We also offer a full range of business legal services

## CONTENTIOUS PROBATE AND INHERITANCE CLAIMS

Disputing probate or contesting a Will is a specialised area of law. Debenhams Ottawa solicitors has a team of lawyers who can assist your clients in making the right decisions.

The information below is designed to enable you to discuss this area of law with your client and if appropriate, help them to decide whether to instruct a solicitor.

**Contesting the Will of a deceased person can be done if it is believed that:**

The Will is invalid because the person who made the Will:

- lacked testamentary capacity to make the Will
- was not 18 when they made the Will
- did so not under their own free will
- did not understand the true meaning of the Will
- did not sign the Will in the joint presence of two witnesses
- The Will is a forgery
- The Will was made in circumstances where a dishonest representation was made to the person making the Will by those seeking to benefit under the Will i.e. fraud
- The Will being admitted to probate by another person is a copy of a "lost" Will in circumstances where it is believed that the original Will was "revoked" or "destroyed" by the person making the Will
- The Will makes no provision for someone as a beneficiary, when they believe it should have done.

**Inheritance Act Claims – inadequate provision for a dependent**

In general under English inheritance law, people aged over 18 years are free to leave their property to whomever they wish. However, where a Will or an intestacy makes inadequate provision for a spouse, child, civil partner, cohabitee or another surviving dependant who was financially dependent on the deceased at the time of their death, then the law provides a way for such a person to make a claim for "reasonable financial provision" to be made out of the deceased's Estate.

These claims, known as Inheritance Act claims, are made under the Inheritance (Provision for Family and Dependents) Act 1975 and can be brought, for example, where somebody has been left out of a Will altogether.

**Challenging the way an Estate or Trust is being administered**

If someone has an interest in an Estate or under a Trust they may be able to challenge the way in which an Estate or a Trust is being administered if they suspect that the Personal Representatives or the Trustees are not taking their duties seriously or are abusing the position they find themselves in.

For further details please contact

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