

## February 2010

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### **Badly drafted wills causing hardship to families**

Badly drafted wills by unqualified and unregulated providers are putting families at risk of severe hardship, according to a report by the Law Society.

Research by the Society highlights cases where wills turn out to be invalid because they are not properly drawn up. This means the deceased person's estate is treated as if they died intestate – that is, without having made a will at all.

The estate is then divided in a way laid down by the law, which could mean it goes to people the deceased person had not chosen.

The President of the Law Society, Robert Heslett, said: "Solicitors know of so many cases of people who have turned to them for help after being left with what can only be described as nightmare wills by will writers.

"In many cases, the victims are not aware their will writer is not regulated nor insured, so there is no means of redress if things go wrong."

Sometimes, people are persuaded to use unregulated will companies because they offer a cut-price service. In reality, however, that can turn out to be a false economy.

Mr Heslett said: "While the initial cost of using these will writers can appear cheap, rectifying the damage if things go wrong can add up to much more. We advise people in this situation to consult a solicitor to check the accuracy of their will before it is too late."

Please contact Christopher Jackson if you would like more information about the issues raised in this article or wish to make a will.

### **Big increase in unfair dismissal claims**

The number of claims for unfair dismissal has risen by 29%, according to the latest figures released by the Tribunals Service.

There were also steep rises in the number of employees taking action over levels of redundancy pay and the failure by employers to consult properly when making redundancies.

The increases are largely down to the recession which has put enormous pressure on firms. The sudden nature of the downturn has meant some have rushed to lay people off without following the correct procedures. This lays them open to claims from staff who feel they haven't been treated properly or given the appropriate redundancy package.

The latest figures from the Tribunals Service cover the 12-month period up to March 2009. In that time the number of claims for unfair dismissal rose from just under 41,000 to just under 53,000. Claims over failure to inform and consult on redundancies more than doubled from 4,480 to 11,371. The number of claims over redundancy pay rose from 7,313 to 10,839.

The figures show the increasing willingness of employees to take action to protect their interests. Economic pressure is also a factor. In the past, many employees who lost their jobs would find new work quite quickly and so would not feel the need to pursue a tribunal claim. The recession has made it much harder to find work so people have fewer options. They may choose to take legal action to make up for their lack of income.

Anyone who feels they have been treated unfairly in redundancy proceedings or discriminated against at work should seek legal advice as soon as possible. Please contact Justin Birch if you would like more information regarding redundancy or any matter relating to employment law.

### **Inheritance tax threshold held at £325,000**

The individual inheritance tax threshold is to remain unchanged at £325,000.

The Government had originally intended to increase the allowance to £350,000 from next year but that plan has now been scrapped because of the recession.

Making the announcement in his pre-budget statement, the Chancellor, Alistair Darling, said: "I do not believe that raising this allowance can be a priority, given the impact of the downturn on the country's finances. So I have decided to freeze the individual allowance at £325,000 for the next year."

The announcement will be a disappointment to many people and highlights the need to plan ahead in order to ensure that as much of your estate as possible is passed on in a tax efficient way to your beneficiaries.

Government announcements on inheritance matters often prompt people to review their wills, trusts and overall financial arrangements. A little careful planning now can prevent thousands of pounds being wasted in the future.

Please contact Christopher Jackson if you would like more information about wills, trusts and any matter relating to inheritance planning.

### **Judge 'denied man's rights in contact proceedings'**

The Court of Appeal has ruled that a judge was wrong when he dismissed legal proceedings in which a father was trying to establish his right to have contact with his two children.

The father suffered from bi-polar disorder and needed medication to stabilise his condition. In the past he had sometimes failed to take his medication and this had led to violent episodes involving both the children and their mother.

The couple eventually separated and the children continued living with the mother. He applied for a contact order so he could see his children and during the ensuing proceedings he admitted that he had been violent to the mother and the children.

He was then due to attend a fact-finding hearing but applied for an adjournment because his psychologist had advised him that he was not fit to give evidence.

The judge noted that this was a particularly important hearing because the father was due to be cross-examined about his past violent episodes. He refused to grant the adjournment

because he decided that the father's case had no chance of succeeding as the children did not want to have contact with him and it would not be in their interests to delay the proceedings any further.

However, the Court of Appeal has now overturned that decision. It held that the judge should have focussed only on the issues in front of him and not on matters that would be examined later. By totally dismissing the case he had denied the father's right to a fair trial.

It was also true that the father's case was not entirely hopeless because the eldest child had said that he might be prepared to see him under strict supervision and would probably want to bring his younger brother along as well.

Please contact Patrick Troy if you would like more information about any aspect of family law.

## **How victims of uninsured drivers can still claim compensation**

The Government has announced plans to clamp down on motorists with no insurance. New measures will make it an offence to keep a vehicle without insurance as opposed to the present system where no offence is committed until the vehicle is actually driven on public roads.

Ministers believe this will make it easier to catch uninsured drivers and prevent them posing a threat to other road users. The latest figures show that uninsured and untraced drivers are responsible for 160 deaths and 23,000 injuries every year. Uninsured drivers also cost law abiding motorists £400m a year in extra premiums.

The measures are a welcome step forward as uninsured drivers bring tragedy and heartache to thousands of families each year. Many victims don't even receive any compensation because they don't realise they can make a claim even though the driver who injured them has no insurance or can't be traced. In many cases, however, they can take action under a scheme run by the Motor Insurers Bureau.

The criteria for making a successful claim are quite strict so victims should take action as quickly as possible. For example, victims have to notify the police of the accident within a specified time. They can be left without compensation if they don't. They should keep a note of the name of the officer who takes their details.

They should also seek expert help from a specialist solicitor who has access to the Motor Insurance Database which can sometimes be used to trace the guilty driver.

Please contact Martin Crossley if you would like more information.