

## The Inheritance (Provision for Family and Dependents) Act 1975

- The 1975 Act permits certain classes of individuals to apply to court for an order that reasonable financial provision be made for them from the estate of the Deceased . For all applicants other than spouses, what is reasonable is assessed against a maintenance standard .
- The court is mandated to consider the factors set out in section 3: Needs and resources of applicants/beneficiaries; obligations and responsibilities of testator; size and nature of estate; disabilities; any other matter including conduct
- This is a value judgment on the part of the court (so always gives rise to inherent risk for litigants)  
**Ilott v Blue Cross [2017] UK SC 17 [at 61]:**

*“A dispassionate study of each of the matters set out in section 3(1) will not provide the answer to the question whether the will makes reasonable financial provision for the applicant, no matter how thorough and careful it is ... section 3 provides no guidance about the relative importance to be attached to each of the relevant criteria. So between the dispassionate study and the answer to the first question lies the value judgment to which the authorities have referred. It seems to me that the jurisprudence reveals a struggle to articulate, for the benefit of the parties in the particular case and of practitioners, how that value judgment has been, or should be, made on a given set of facts.”*

## Charity Cases under the 1975 Act

### Re Besterman [1984] Ch 458

- Estate of £1.5 million left (mostly) to Oxford University, spouse awarded £378,000.

*“Save in the sense that he would, no doubt, have considered that he owed a duty to himself and to posterity to provide for and complete the work of scholarship in which he was passionately interested, it could not be said that he owed the University any duty, much less a duty which could reasonably be thought to override the very real duty which he owed to his wife.”*

*“I desire to emphasise what has been said, no doubt, many times before, that each case in this jurisdiction depends on its own particular facts and I think that it would be a pity if this case should be used as a basis for drawing general deductions of principle to be applied in other and probably quite different cases, whether of large or small estates.”*

### Re Bunning [1984] Ch. 480

- Estate of £237,000 left to Cambridge University and RSPB; spouse awarded £60,000

### Re Debenham [1986] 1 FLR 404

- Estate of £172,000 left (mostly) between 6 animal charities; daughter awarded £3,000 lump sum plus periodical payments of £4,500

*“I then have to have regard to the obligations and responsibilities which the deceased had towards any applicant for an order, or towards any beneficiary. I can say straight away that the deceased had no obligations and responsibilities towards the charities. She decided to give her estate to charities out of her bounty, without any obligation or responsibility.”*



## Re Abram [1997] B.P.I.R 1

- Estate of £500,000 left to 5 charities; son awarded £400,000 (put in trust)

*“I would myself have little doubt that among the motives for the testatrix’s detailed provisions for the property to be taken over in specie by a charity was a desire to wound the plaintiff by holding up to his eyes his beloved family home in the hands of strangers.”*

*“...there is a substantial amount of property which can be made available, and the beneficiaries under the will are charities. Mr Newey in submission suggested that this somehow gave them a strong moral claim. If that was what he was really saying I respectfully disagree. Charity is an excellent thing to which to give one’s money and all these charities are highly respectable institutions. But charity is in my view something to which you give your money when you have provided sufficiently for your dependants and fulfilled your obligations and it is not right to treat a testator as having to strike a balance of ‘do I leave something to my dependants or to charity’ – compare the balance which testators often have to strike of ‘how much do I leave to A who is a dependant and to B to whom I have a moral obligation’ – an issue which courts exercising this jurisdiction often do have to consider.”*

## Cases under the Previous 1938 Act

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### Re Lawes (1946) 90 S.J. 200

- Estate of £4,500 left to the RSPCA

*“Admirable though this cause was, the widow had not fulfilled her moral obligations to her husband”*

### Re Greenham, The Times, 2 December 1964

- Entire estate of £137,000 left to Institute of Cancer Research; spouse successful in spite of 10-year separation

### Re Sanderson, The Times, 2 November 1963

- Entire estate of £50,000 left to charity; widow successful, despite separation of 40 years.

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<sup>1</sup>spouses/civil partners, former spouses/  
civil partners, children, persons treated  
as children, cohabittees and dependants  
(section 1 (1) (a)-(e))

<sup>2</sup>Section 1 (2)

<sup>3</sup>Oliver LJ at 464-465

<sup>4</sup>Oliver LJ at 479

<sup>5</sup>Ewbank J at 409

<sup>6</sup>Cooke J at 15

<sup>7</sup>Cooke J at 17

