



Family Provision Checklist

Acting for the claimant

- Be familiar with the provisions of Part IV of the [Administration and Probate Act 1958](#) (Vic).
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- When taking initial instructions from a potential family provision claimant, ensure you clearly discuss with the client:
 - the eligibility requirements for a family provision claim at section 90 of the Act;
 - the limited time the claimant has to make a decision and act
 - the scope of your retainer
 - what the claimant must do to move the matter forward
 - the consequences of them not doing so.
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- Always confirm the above matters in writing.
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- Diarise the relevant dates by which action must be taken and relevant follow up times if the client is to provide information or payment.
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- Do not be lulled into a false sense of security just because negotiations with the other side seem to be going well. You must either finalise negotiations or issue proceedings before the time limit expires.
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- Always check the limitation dates in jurisdictions you are not acting in regularly – don't rely on your memory.
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Acting for the estate

- Advise executors or administrators orally and in writing of the consequences of distributing within six months of the grant of probate or letters of administration, making it clear that the executor or administrator will bear personal liability if they distribute the estate early and a subsequent claim is made.

CHECKLIST

August 2020



**LP
LC** LEGAL
PRACTITIONERS'
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COMMITTEE

- Pay careful attention to the time frame and diarise appropriate dates, including any dates relevant to any notices of intention to issue an application.

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- Act promptly in the administration of the estate to enable it to be distributed as soon as possible after the expiry of the first six months.