

## **PE1412/C**

Martin Kilkie Letter of 2 February 2012

PE1412 - Bond of Caution in Succession Law

Dear sir,

I am a member of the public appointed as executor dative to my mother's estate and I thought my recent experience in using the Scottish court system might be interesting and supportive of the above petition.

My mother did not leave a will, mainly as the beneficiaries were myself and my brother and sister and she did not realise there would be any legal problem for us to just divide things up.

In practice the estate is very straight forward consisting of bank accounts, a few hundred pounds in utility shares and some repayments. I have completed all of the HMRC/Scottish courts documentation, obtained executor dative status and about to apply for confirmation.

At this point the dreaded bond of caution arose.

Firstly, as the petition PE1412 describes, the system is archaic and provides now necessary additional benefit to beneficiaries in the modern day.

Secondly the restricted market in provision of the bonds is even more restricted than you indicate in the petition. The only bond provider (Zurich) who is said to provide bonds without a solicitor is only willing to do this without a solicitor for estates under £30,000, which is not today a large sum. This means that in practice there is no provider of bonds of caution without use of a solicitor. The issue for Zurich seems to be that there is a debt on my mother's estate by DWP, which I am appealing. The claim by DWP is a normal activity as is my appeal. If the DWP uphold their decision then the debt is due and will be paid; if the appeal is successful there would be no payment. In either circumstance there is no risk to Zurich.

Having now had personal experience of the bond of caution process I would support the petition which seeks to remove the need for this archaic and dysfunctional insurance premium which provides no purpose for the beneficiaries and seems to be a straight riskless profit for the insurance companies involved and more importantly in practice seems to require the use of a solicitor at significant cost, which must be against individual rights to manage their own estates.

Regards

Martin Kilkie