

Dying without making a will – who gets what

Introduction

The best way to ensure that your estate is passed on in accordance with your wishes is to make a will. However, even with the best of intentions, it may happen that someone dies without making a will, particularly where the death was sudden and unexpected.

Where there is no will, the estate is divided up in accordance with the rules of intestacy. It is sensible to know what these are. Where the rules will give an outcome which is quite different to the desired one, a will should be made without delay.



Married couples and civil partners

Married couple and civil partners inherit under the intestacy rules if they are still married at the time of death. Spouses and partners who have separated but not divorced or dissolved their partnership can also inherit under the intestacy rules.

Where there are surviving children, grandchildren or great grandchildren and the estate is worth more than £250,000, the partner will inherit:

- all personal property and belongings of the deceased
- the first £250,000 of the estate
- half of the remaining estate

If there are no surviving children, grandchildren or great grandchildren, the partner will inherit all the personal property and belongings of the deceased and the whole of the estate with interest from the date of death.

Children

If there is no surviving spouse or civil partner, the children will inherit the whole estate, divided equally between them where there are two or more children.

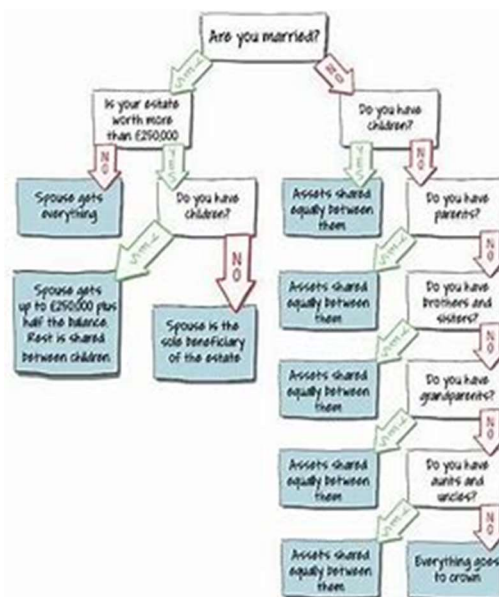
If there is a surviving spouse or civil partner, the children will only inherit if the estate is worth more than £250,000. The children will inherit one half of the estate to the extent that it is worth more than £250,000, divided equally between them.

All the children of the parent inherit equally from the estate, regardless of whether they are from the same or different relationships.

Children receive their inheritance on reaching the age of 18 or marrying or entering a civil partnership if earlier.

Grandchildren and great grandchildren

Children and great grandchildren only inherit under the intestacy rules if their parent or grandparent has died before the parent or grandparent. The grandchildren and great grandchildren inherit the share to which their parent or grandparent would have been entitled.



Other close relatives

If there is no surviving spouse or civil partner, children, grandchildren or greatgrandchildren, other close relatives may inherit under the intestacy rules. The order in which relatives inherit is as follows:

- spouse or civil partner
- children, grandchildren, great grandchildren
- parents
- siblings
- grandparents
- uncles and aunts

Exclusions

The intestacy rules make no provision for partners who are not married to or in a civil partnership with the deceased, regardless of whether they co-habit. Relations by marriage, stepchildren or stepparents, close friends and carers are also excluded.

No surviving relatives

If there are no surviving relatives, the estate passes to the Crown under the rules of intestacy. This is known as 'bona vacantia'.

Changing the outcome

As long as all the beneficiaries agree, an arrangement can be made which will allow the estate to be divided up other than as provided for under the intestacy rules, allowing someone who is excluded under the intestacy provisions,

such as a stepchild, to benefit. This can be achieved by a Deed of Family Arrangement.

A person may also be able to make an application to the court under the Inheritance (Provision for Family and Dependents) Act 1975 if they were dependant on the deceased when they passed away but do not inherit under the intestacy rules, for example, an unmarried partner.

Recommendation

While the above discusses the issues of not having a Will in place. It is important once made, this is kept up to date with life changes such as Divorce or Remarrying.

Take legal advice when making a Will as this is one of major areas of disputes with Contested Wills.

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