



DYING WITHOUT A WILL – INTESTACY

What Happens If I die without Having made a Will?

If you die without having made a valid Will you die “**intestate**”. This means that your estate will be dealt with in accordance with rules that are set out in law, referred to as the “intestacy rules”.

Some **disadvantages** of dying intestate are:-

- Your spouse does not automatically receive everything that you own!
- You have no control over who administers your estate – this is set out in law
- You have no control over who inherits your estate
- Co-habitees have no rights of inheritance under the intestacy rules
- Often an intestacy can be more complicated and therefore more expensive to administer
- If you have young children the Courts will decide who will become their Guardians.

How Will my Estate be Distributed under the Intestacy Rules?

How your estate is distributed depends upon who your surviving relatives are:-

1. Married people with Children

The surviving spouse will receive:-

- your personal belongings and
- a “statutory legacy” which for deaths on or after the 1 February 2009 it is **£250,000** (*though for deaths occurring on or before the 31 January 2009 it is £125,000*)

Anything then remaining is divided into 2 halves :-

- one half is held on trust for your spouse for life (and your spouse will receive the income). Upon their death this half passes to your children.
- one half passes to your children at the age of 18 years

2. Married people with NO children

The surviving spouse will receive:-

- Your personal belongings
- A statutory legacy for deaths on or after the 1 February 2009 it is **£450,000** (*though for deaths occurring on or before the 31 January 2009 it is £200,000*)

Anything then remaining is divided into 2 halves:-

- One half passes to your spouse
- One half passes to your parents, or if you have no surviving parents this half will pass equally between your brothers and sisters, or their children. If there are none this half also passes to your spouse.

3. Unmarried People

The order as to who will inherit is:-

- Your children at 18, or their children

- If none, then to your parents equally
- If none then to your brothers and sisters equally, or their children
- If none then to your half brothers and half sisters equally, or to their children
- If none then to your grandparents equally (on both sides of your family)
- If none then to your aunts and uncles equally, or their children (on both sides of your family)
- If none then to your half aunts and half uncles, or their children (on both sides of the family)
- Finally, if none, the Crown!

Cohabitees & the intestacy rules

Under the intestacy rules there is **NO** provision for a cohabitee. Therefore, unless you own your property as joint tenants your cohabitee will have no automatic right to inherit your property (or any other assets in your estate), and is potentially at risk of being made homeless.

If when you die you have failed to “make reasonable financial provision” for your partner (which could be the case if you die intestate) they would have to consider making a claim against your estate.

To make a claim they would have had to have been:-

- living with you during the whole of the period of 2 years ending immediately before your date of death *and*
- in the same household as you *and*
- as your husband/wife.

The court will assess what “reasonable financial provision” is required, but as a cohabitee this is limited to provision for maintenance only. Your estate will be taken into account as will your partner’s own financial needs and resources.

Your Will

To avoid the worry, cost and complications of dying intestate we strongly advise you to make a Will.

Making a Will in most cases is a straightforward process. We will meet with you to discuss your instructions and provide you with guidance and advice. We aim to provide a friendly and efficient service.

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