

Consumer guide to the Intestacy rules

It is a startling fact that millions of people over the age of 18 have not made a will. That means there are potentially millions of people for whom the process of distributing a loved one's estate will be dictated by the state and may not accord with the deceased's real intentions. It could also produce an unwanted result.

A person who dies without having left a valid will is said to have died "intestate" and then the complicated intestacy rules kick in. Here is a quick guide to the rules.

(1) The deceased was married and the estate is valued at less than £250,000 the surviving spouse gets it all

(2) The deceased was married and had children and the estate is worth over £250,000

The spouse receives up to £250,000 and personal belongings

Anything over this is divided into two. Half goes to the children immediately and the other half is held in trust for the children and passes to them on the death of the spouse. The spouse is entitled to enjoy the interest on the half during their life but not the capital amount

Where the child predeceases the parent and has children ('issue'), his or her issue will take his share equally between them.

(3) The deceased was married and had no children and the estate is worth over £250,000

Where there are whole blood relatives, parents brothers or sisters, nephew or nieces:

up to £450,000 & personal possessions will go to the spouse

The remainder is divided into two:-

half to spouse and

half to parents, or if deceased, then it goes to brothers or sisters or their children.

(4) The deceased was married and had no parents, brothers or sisters of the whole blood, nephew or nieces

The whole estate will go to the spouse.

(5) The deceased was unmarried and had children

The whole estate goes to the children at 18 or earlier marriage

Where a child predeceases, leaving issue, their issue will get their parent's share

(6) The deceased was unmarried and had no children

The estate will go to the parents.

If there are no parents, then estate will go to siblings of the whole blood or their issue.

If none, then the estate will go to siblings of the half blood (or their issue)

If none, then estate will go to grandparents.

If none, then the estate will go to uncles and aunts of the whole blood (or their issue).

If none, then estate will go to uncles and aunts of the half blood (or their issue).

In the event that there are no parents, no siblings (whole or half blood), no issue of siblings, no grandparents, no uncles and aunts (whole or half blood), or issue of uncles or aunts, the estate will go to the Crown (or to the Duchy of Lancaster or the Duke of Cornwall).

Conclusion

As you will see the effect of the intestacy rules can produce a situation which could be unfair on the surviving spouse.

The best way of ensuring this does not happen is to make a will. It is a painless procedure; it is not expensive and will give peace of mind.

Notes

This guide is intended for reference only and there may be exceptions to the rules for which legal advice should be sought.

The figures shown apply for deaths **on or after 1st February 2010**.

All references to spouses and being married apply equally to those civil partners who have undergone a recognised civil ceremony.

The above assumes the spouse survives the deceased by at least 28 days.