



Intestacy Rules

What happens if a person dies without having made a Will that person is said to have died “Intestate”. The law sets out the rules which apply in this situation. There may be exceptions which are not referred to here. The law is as stated in 1st February 2009. The general rules are as follows:-

Married person with children

- £250,000.00 plus personal possessions to surviving spouse.
- The remainder is divided into two:-
 - Half to the children at 18 or on their earlier marriage
 - Half in trust for income during the spouses lifetime and on the spouses death it passes then to the children of their issue.

Married person with no children

- £450,000.00 plus personal possessions to the surviving spouse
- The remainder is divided into two:-
 - Half goes to the spouse
 - Half to the parents. If no parents living then to brothers or sisters of their children.
brothers or sisters or their children.

Married person, no children, no parents, no brothers or sisters of the whole blood, no nephews or nieces

- Spouse takes the whole estate

Unmarried person with children

- Estate goes to children at 18 or earlier marriage.
- If child predeceases leaving issue the issue take in equal shares.

Unmarried person with no children

- Estate goes to parents.
- If none, then siblings of the whole blood of their issue.
- If none, then go to grandparents.

- If none, then to uncles and aunts of the whole blood or their issue.
- If none, then to uncles and aunts of the half blood or their issue.
- If none, then to the Crown (or the Duchy of Lancaster or the Duke of Cornwall).

Spouses and civil partners have a right to capitalise the life interest. The capital value of the life interest is calculated according to tables in the Intestate Succession (Interest and Capitalisation) (amendment) Order 2008 to take into account the life expectancy increases and decreases in the yield in government stocks.

Therefore if a married person with children was to die intestate with the family home in their sole name their spouse would have to leave the family home as most homes are worth more than £250,000. Similarly an unmarried person who had cohabited for many years, dying intestate, would leave their partner nothing. It is therefore important to make a Will. By making a Will you are ensuring that your property, money and other assets are divided and left to the people you wish and your solicitor can help you to ensure that your Will is as tax efficient as possible. Once you have drawn up a Will you can change it and indeed it is a good idea to update your Will as your circumstances change.

AWG will be happy to help you.

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