

What if I have no Will? The intestacy rules explained

When someone dies without a Will (or without a valid Will) then their estate must be distributed in accordance with what are known as the intestacy rules.

The intestacy rules apply a “one size fits all” solution to an estate. Such rules may not be suitable to everybody, particularly those with estranged family members who could still inherit from your estate despite a breakdown in the relationship.

Who would inherit under the intestacy rules?

Who would inherit depends upon your personal circumstances and are summarised below.

Married or in a civil partnership with children

In such circumstances, it is not the case that your spouse/civil partner will automatically inherit the entirety of your estate.

If your estate is in excess of a certain amount (£270,000 as at the date of this article), then your spouse/civil partner will receive the following:

- Your personal possession, whatever their value;
- The first £270,000 of your estate if you have children (or later issue) plus half the rest of your estate.

The other half of your estate would pass to your children in equal shares.

Married or in a civil partnership with no children

Your spouse will receive the entirety of your estate.

Unmarried with children (or later issue)

Your children will receive your entire estate when they reach the age of 18. If you have more than one child, the estate will be divided in equal shares.

It should be noted that adopted children are treated in the same manner as biological children.

Unmarried with no children

In such circumstances the order of inheritance will be as follows:

1. Your parents (in equal shares);
2. If your parents are deceased, then the estate would pass to your siblings*;
3. If you have no siblings, the estate would be divided between any half-siblings*;
4. If there are no surviving relatives as detailed above, then your estate would pass to your grandparents (in equal shares)
5. Failing the above, the estate would pass equally between your aunts and uncles*.

*If any of these relatives have predeceased you leaving surviving children, the share that they would have otherwise inherited would pass to their children in equal shares.

Unmarried with no living relatives

If you have no relatives as detailed above, then your estate would pass to the Crown (essentially to the government).

What about jointly owned assets?

If you have joint bank accounts or own property or land as joint tenants (as opposed to tenants in common), then any such assets will automatically pass to the surviving owner.

What about unmarried partners or step-children?

In England there is no such concept as a “common law partner”. If you die without a Will, your partner will not inherit anything from your estate.

Similarly, any step-children you might have will not inherit from your estate under the intestacy rules.

Marriages/Civil Partnerships after preparing a Will

It is important to note that, even if you have previously prepared a Will, any subsequent marriage/civil partnership will revoke such a Will unless it was prepared in anticipation of the marriage and there is a specific non-revocation clause.

The revoked Will would therefore have no bearing and the intestacy rules would apply.

Preparation of a Will

The preparation of a Will ensures certainty with regard to who inherits from your estate and also who is appointed to manage your estate when you die (known as executors). The preparation of your Will can also assist with inheritance tax planning and long term care planning.

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