



## What are the intestacy rules?

When someone dies without a will, their estate is distributed according to standard rules, known as the rules of intestacy. The rules will distribute your estate to your family members in a strict order, depending on which relatives you leave behind. The rules also determine who will be responsible for handling your affairs.

## How will my estate be distributed if the intestacy rules apply?

1. Married couples and civil partners. If you're married or in a civil partnership and you die intestate, your spouse or civil partner will not automatically receive all of your estate. They will only receive your personal possessions, along with:
  - a) all of the rest of your estate if you have no children, grandchildren or greatgrandchildren.
  - b) the first £322,000 of your estate, if you have children, grandchildren or greatgrandchildren, plus half of the rest of the estate. The other half of the rest of the estate will go to your children. Whilst the gift to the surviving spouse does not attract Inheritance Tax, the gift to descendants will be assessable for this tax.

If you do not have a spouse/civil partner then the estate will be distributed as follows and if there is more than one person in each category then they will all receive an equal share:-

2. Your child/children
3. Your grandchild/children
4. Your surviving parents
5. Your brothers and sisters
6. Your nieces and nephews
7. Your half-brothers and half-sisters.
8. Your grandparents
9. Your aunts and uncles
10. Your cousins
11. Your half-aunts and half-uncles

Note that the children of anyone entitled who has died will receive that share.

## Who will get my estate if I have no surviving relatives?

The Crown. If there are no surviving relatives at the date of your death, your estate will pass to the Crown as Bona Vacantia.

## I'm in a relationship but not married. If I don't have a will does my partner automatically inherit?

No. The rules of intestacy don't make any provisions for unmarried and unregistered partners. This means that on intestacy, the surviving partner will not automatically inherit any of the property and possessions owned in the sole name of the deceased. The partner may have the right to make a claim against the estate for reasonable financial provision to be made for their maintenance. A family may agree to vary the distribution on intestacy to provide for the partner. need to make an inheritance claim, or the family can legally vary the distribution on intestacy to provide for the partner.

## Who would not receive an inheritance?

If you die intestate, no one inherits except as set out above. Therefore, friends, charities and others will not benefit from your estate.

It is also important to note that the rules of intestacy also only recognise natural and adopted children for the purpose of inheritance; they do not acknowledge step children.

## What if children of someone who has died intestate are still minors?

When a parent dies intestate and their children are under 18, the assets will be held in trust for them until they become fully entitled to them at age 18. You may prefer your children to be older but the intestacy rules take no account of this.

## How does dying intestate affect any property owned?

The ways in which a property is held will affect how they are transferred:-

### **Sole Name**

If the property is owned solely by person who died, then it will be distributed according to the rules set out on page 1.

### **Joint Tenants**

If you own a property with somebody as joint tenants then you own the property equally. On the death of the first owner, their share of the property will automatically pass to the surviving joint owner. It is important to note that if you hold the property as joint tenants then you cannot give away your share of the property in your will. Therefore, even if you die without a will, the property will simply pass to the other owner, regardless of your familial relationship with them.

On the death of the second owner, the property will be left according to their will if any, or according to the intestacy rules if there is no will.

### **Tenants in Common**

If you own a property with somebody as tenants in common then each owner has their own separate share of the property (usually 50% each). Unlike joint tenants, you can give away your share of the property in your will as your share does not automatically transfer to the surviving owner on death. If you die without a will, your share of the property will pass according to the rules set out on page 1.

## What happens if the person who died intestate still has outstanding debts or liabilities to pay?

Any liabilities due must be paid from the estate before it is distributed. After the payment of the liabilities, whatever is left of the estate will then be distributed in line with the intestacy rules.

## How can an estate be protected?

Simply by making a valid will. This will ensure that your estate would not be subject to the intestacy rules and you will be able to set out who is to benefit, who is to be responsible for administering your affairs, who will look after your children if you are their surviving parent and the age at which your children receive their inheritance.

### Useful Link

Further information on the rules of intestacy can also be found on the government website - <https://www.gov.uk/browse/births-deaths-marriages/death>.

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