

RUSSELL-COOKE SOLICITORS
PRIVATE CLIENT DEPARTMENT
THE LAWS OF INTESTACY

When you die without leaving a valid will, you are said to have died intestate. If you die intestate, your wishes, if known, are irrelevant and the rules of intestacy govern what happens to your estate.

The intestacy laws make provision for the deceased's family, with priority given to spouses or civil partners and the deceased's children. Unmarried partners of the deceased have no right to the estate under the laws of intestacy.

The laws of England and Wales that provide for the spouses and civil partners of those who die intestate are to change from 1st February 2009. These changes are summarised below.

The Intestacy Laws for Deaths prior to 1st February 2009

The law differentiates between those who die intestate with children and those who die intestate without leaving children.

If the **deceased had children**, the surviving spouse or civil partner receives:

1. The deceased's personal possessions
2. £125,000 (this is known as the statutory legacy)
3. A life interest in half of the remainder of the estate. The spouse or civil partner is entitled to receive any income earned on investments or a right to occupy a property falling within the value of this half share, but they are not entitled to the capital.

The deceased's children would receive half of the remaining estate immediately and the other half upon the death of the surviving spouse or civil partner.

If the deceased had more than one child, the inheritance is split equally.

If any of the deceased's children are under 18 at the date of death, their share of the estate is held in trust until they reach 18.

If the deceased survives its child, that share will go directly to the grandchildren, if any.

If the **deceased had no children**, the surviving spouse or civil partner receives:

1. The deceased's personal possessions
2. A statutory legacy of £200,000
3. A life interest in half of the remainder of the estate

The deceased's parents receive the remaining half of the estate immediately and the other half upon the death of the spouse or civil partner. If the deceased survived their parents, the remainder is passed to surviving siblings and so on through various blood relatives.

If the deceased left no spouse or civil partner, the whole of the estate will go to the blood relatives with priority going to the children.

If no blood relatives can be traced, the estate will pass to the Crown.

The Intestacy Laws for Deaths from 1st February 2009

The majority of the rules remain unaltered but the statutory legacies for spouses and civil partners are increased to:

1. £250,000 if the deceased had children
2. £450,000 if the deceased had no children

These increases are intended to provide a fairer distribution of assets when someone dies intestate by bringing the statutory legacies in line with today's values. In the majority of cases after 1st February 2009, the spouse or civil partner will inherit all of the estate by virtue of the statutory legacy.

However, the rules of intestacy rarely mirror the exact wishes of the deceased and do not usually distribute the estate in the most tax efficient manner. Furthermore, without a will, there can be no executors and so the family of the deceased must sort things out as best they can. This can lead to family disputes.

Even if you have made a will, it may not still be valid; for example, if you have subsequently married or entered into a civil partnership when you were domiciled in England and Wales or in Northern Ireland the will was not expressed to be made in contemplation of that marriage or civil partnership, then the will you made beforehand will be revoked by your marriage or civil partnership and you will die intestate.

Therefore it is vital to make a will and update it regularly to ensure that your estate is distributed according to your wishes rather than according to the Government's intestacy laws and to avoid the problems associated with intestacy.

How can Russell-Cooke Solicitors help?

- If you wish to talk to someone about estate administration, succession planning, making or updating a Will then we are happy to advise you, in consultation or writing, on the options available to you.
- We also have a specialist Contentious Probate team that can advise on any disputes that arise when administering an estate and the relevant Court applications.
- Our usual charging rates will apply and fees will be charged in accordance with the amount of time spent dealing with your instructions.
- If you require further information or advice please contact any of the following:

Anne Walter

anne.walter@russell-cooke.co.uk

Putney - 020 8394 6226

David Carson

david.carson@russell-cooke.co.uk

Putney - 020 8394 6235

Helen MacLeod

helen.macleod@russell-cooke.co.uk

Putney - 020 8394 6206

Pamela Gale

pamela.gale@russell-cooke.co.uk

Kingston - 020 8541 2043

Fiona MacDonald

fiona.macdonald@russell-cooke.co.uk

Kingston - 020 8541 2034