

HAVE YOU MADE YOUR WILL YET?

IF NOT, ARE YOU AWARE OF THE CONSEQUENCES OF DYING WITHOUT ONE?

PLEASE READ ON.....

INTESTACY

If you die without leaving a Will, you die “intestate” and your property (known as your “estate”) will pass in accordance with the intestacy rules under the law. These rules have to be strictly applied and, depending on your circumstances at the time of death, could cause your family extreme difficulty and anxiety. The rules vary according to the family members who survive you and, in summary, are as follows:-

1. SPOUSE/CIVIL PARTNER AND CHILDREN

If you die leaving a wife, husband or civil partner and children, then your wife, husband or civil partner will inherit the following from your estate:-

1. A legacy of **£125,000.00**. (Would this cover your share in the family home?)
2. All of your personal belongings.
3. A life interest in *one half* of the remainder of your estate. This means they will have the use of those assets for the rest of their life and then they pass outright to your children in equal shares.

Your children will inherit the other half of the remainder as an outright gift divided equally between them. If any of them are under 18, their shares will be placed in trust until they are 18.

If your spouse or civil partner does not survive you by 28 days, they will not inherit from your estate (see 3. below). Consider the possibility of both you and your spouse or civil partner being killed in a joint calamity?

2. SPOUSE/CIVIL PARTNER BUT NO CHILDREN

If you die leaving a wife, husband or civil partner, but no children, then the division of your estate depends on what other surviving relatives you have. **It does not all pass automatically to your spouse or civil partner.** Your spouse or civil partner will inherit the following from your estate:-

1. A legacy of **£200,000.00**. (Will this cover your share in the family home?)
2. All of your personal belongings.
3. An outright gift of one half of the remainder of your estate.

These notes relate only to the Law in England and Wales. They are by no means exhaustive but we hope that they will help avoid some of the difficulties which may arise. Please raise any queries with us as soon as possible.

The other half of the remainder of your estate passes as an outright gift to your surviving parent or parents. If you have no surviving parents, then it will pass as an outright gift equally between any surviving brothers and sisters (of the whole blood). If you have no surviving brothers and sisters, then it will pass to any of their surviving children, in other words, your nieces and nephews, equally according to the branch.

So, for example, if you die leaving a spouse or civil partner, but no parents or siblings, and, say, your deceased brother had two children and your deceased sister had three, then your spouse gets £200,000, your personal belongings and one half of everything else. The remaining half will be divided into two parts, one to be divided between your deceased brother's two children and the other to be divided between your deceased sister's three children as outright gifts. Again, if any children are under 18, their shares will have to be held in trust until they come of age.

ONLY IF YOU DIE WITHOUT LEAVING CHILDREN, PARENTS, BROTHERS OR SISTERS OF THE WHOLE BLOOD OR THEIR CHILDREN WILL YOUR WHOLE ESTATE PASS TO YOUR SURVIVING SPOUSE OR CIVIL PARTNER.

3. CHILDREN BUT NO SURVIVING SPOUSE/CIVIL PARTNER

If you die leaving children but no surviving spouse or civil partner, then your surviving children will share your estate equally between them, although they have to reach 18. If they do not reach 18, their share passes to your other children who do reach 18. Should a child die before reaching 18 leaving a child or children of their own (including illegitimate children born after 01.01.1970), then their share of your estate will pass to that child or children.

4. NO SURVIVING SPOUSE/CIVIL PARTNER OR CHILDREN

If you die leaving no spouse, civil partner or children, the order of entitlement is as follows:-

Parents or, if none, brothers and sisters of the whole blood or their children or, if none, half-brothers or half-sisters or their children or, if none, grandparents or, if none, aunts and uncles of the whole blood or their children or, if none, aunts and uncles of the half blood or their children.

IF YOU HAVE NONE OF THESE RELATIVES SURVIVING, THE WHOLE OF YOUR ESTATE WILL PASS TO THE CROWN, THE DUCHY OF LANCASTER OR THE DUCHY OF CORNWALL, DEPENDING ON WHERE YOU WERE RESIDENT.

Note: if you are living with a partner as a "common law" spouse and you die without a Will, there is a common misconception that he or she will inherit from you. **The reality is your partner will receive nothing whatsoever.** He or she may be able to claim against your estate under other statutory provisions, but will get nothing under the automatic intestacy rules.

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ADMINISTRATION OF YOUR ESTATE

If you die without leaving a Will, you have also lost the opportunity to appoint Executors of your choice. These are the people who are responsible for collecting in your assets and ensuring that they are passed to the people you wish to benefit. Instead, the person or people entitled to administer your estate will be appointed by law, broadly in accordance with the entitlement to your estate, as above.

So, for example, if you die leaving a spouse/civil partner and children, your spouse will be entitled to administer your estate. If you die without a spouse but with adult children, your children will be equally entitled to administer your estate. If you die without a spouse/civil partner or children, but with a surviving parent, then that parent will be entitled to act, and so on.

YOUR CHOICE.....DON'T LEAVE THINGS TO CHANCE

MAKE A WILL!

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