

The Rules of Intestacy (summary)

If you die without making a Will, the State makes one for you. At present in England and Wales, your estate is distributed as follows:

1. **Married with no children, parents, brothers, sisters, nephews or nieces** – the spouse inherits everything.
2. **If there are children**, the spouse takes the personal chattels (car, furniture, clothing etc.) and £250,000 and INCOME ONLY from HALF the residue. The children are entitled to half of the residue (the balance) when they are 18 (or earlier if they marry) PLUS the other half of the residue on the death of the surviving parent.
3. **If there are no children but there are parents, brothers, sisters, nephews or nieces** then the spouse takes the personal chattels plus £400,000 plus half the residue.

The other half of the residue is given in order to either:

- a) **parent(s)** or if they are dead then to
- b) **brothers and sisters** or if they are dead then to **nephews and nieces**

4. **If there is no surviving spouse** then everything is taken by:
 - a) **children** but if none then by
 - b) **parents** but if none then by
 - c) **brothers, sisters or nephews and nieces BUT IF NONE THEN BY**
 - d) **grandparents** but if none then by
 - e) **uncles, aunts or cousins** but if none then by
 - f) **the CROWN**

Can you see any problems with the above arrangements? Do you know anyone who would be pleased to have their property disposed of according to one of the above formulae?

There are so many well-documented cases of extreme hardship and difficulty resulting from people dying Intestate.

The effects of Intestacy

Mr & Mrs Williams were both aged 55. They had a son aged 23 and a married daughter of 27. Mr Williams had recently inherited a house from his mother and had sold this for £90,000; he had invested half this money in shares and the other half was on deposit in the Building Society.

Mr Williams died unexpectedly without leaving a Will. He had been expecting to retire within the next few years and had built up £103,000 in his pension fund – he was also insured for a death in service benefit of four times his annual salary. He was earning £34,000 at the time. Fortunately, Mr & Mrs Williams had paid off the mortgage and the house was in joint names.

Excluding the house and personal chattels, Mr Williams left an estate of £329,000. Because there was no Will, Mrs Williams was allowed £250,000 absolutely. Of the remaining £79,000, Mrs Williams was entitled to £39,500 to provide an income - but she is not allowed to spend any of this capital – she has to pass this on to her son and daughter.

The other £39,500 should be divided between the son and daughter. Mrs Williams' daughter and son-in-law were running their own business; within 15 months of Mr Williams' death the business ran into trouble, accumulating large debts. The daughter's inheritance of £19,750 was counted among her assets and she had no option but to take this sum of money from the family funds, thereby reducing Mrs Williams' income.

Probably, Mr Williams would have wanted his wife to have full-unrestricted access to his estate. Mrs Williams is now much less comfortably provided for than she would have been had Mr Williams written a straightforward Will. This story is typical, but there are many worse examples.

If the house is not in joint names or if the estate is not passing between husband and wife then it frequently occurs that the family home has to be sold to meet the requirements of the Intestacy Rules. You can work out some other examples for yourself.

The Solution?

MAKE A WILL YOU KNOW IT MAKES SENSE!