



# INTESTACY

## England and Wales

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Whether or not the deceased left a will, certain family members and dependants may apply to court for reasonable financial provision from the estate. This is often referred to as a claim for family provision.

If the intestate dies leaving:

### **Spouse or civil partner surviving 28 days, no issue**

- Spouse or civil partner takes everything absolutely.

### **Spouse or civil partner surviving 28 days and issue**

- Spouse or civil partner takes personal chattels absolutely (car, furniture, pictures, clothing, jewellery, etc, but not items held for business purposes or an investment).
  - Plus £250,000 absolutely.
  - Plus one-half of the residue.
- Children (or if a child has predeceased, their issue equally at 18 or earlier marriage/civil partnership) take one-half of the residue on reaching age 18 or earlier marriage/civil partnership, equally if more than one.

### **No spouse or civil partner surviving 28 days**

Everything is taken by:

- Children; equally if more than one at 18 or earlier marriage/civil partnership, or if a child has predeceased, their issue equally at 18 or earlier marriage/civil partnership; but if none:
- Parents; equally if more than one, but if none:
- Brothers and sisters of the whole blood; equally if more than one at 18 or earlier marriage/civil partnership (or if a brother or sister has predeceased, their issue equally at 18 or earlier marriage/civil partnership); but if none:
- Brothers and sisters of the half blood; equally if more than one at 18 or earlier marriage/civil partnership (or if a half-brother or half-sister has predeceased, their issue equally at 18 or earlier marriage/civil partnership); but if none:
- Grandparents; equally if more than one; but if none:
- Uncles and aunts of the whole blood; equally if more than one at 18 or earlier marriage/civil partnership (or if an uncle or aunt has predeceased, their issue equally at 18 or earlier marriage/civil partnership); but if none:
- Uncles and aunts of the half blood; equally if more than one at 18 or earlier marriage/civil partnership (or if a half-uncle or half-aunt has predeceased, their issue equally at 18 or earlier marriage/civil partnership); but if none:
- The Crown.

### **NOTES**

1. An adopted child is treated as the legitimate child of the adopter(s).
2. Children adopted after the death of a natural parent can inherit from the natural parent.
3. A child legitimated takes any interest as if born legitimate.
4. An illegitimate child takes any interest provided there is satisfactory proof of parentage.
5. The property of a man or woman who is divorced or legally separated does not go to the ex-spouse or civil partner under the intestacy rules.
6. All relatives above are described as blood relationships; therefore the wife of an uncle bearing the courtesy title aunt cannot take.

# Scotland

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If the intestate dies leaving:

## **Spouse or civil partner surviving 28 days, but no issue, parent(s), brother(s) or sister(s), nephew(s) or niece(s)**

- Spouse or civil partner takes everything absolutely.

## **Spouse or civil partner surviving 28 days and issue**

The spouse or civil partner gets the house up to a value of £473,000. They will get a lump sum of £473,000 if the house is worth more, and may have to sell off the property.

They also get:

- Furniture and moveable household goods up to the value of £29,000.
- Up to £50,000 in cash.
- A third of the rest of the estate.

The children will get two-thirds of the rest of the estate. If a son or daughter has already died, their children (the grandchildren of the deceased) will inherit in their place.

## **Spouse or civil partner surviving 28 days, no issue but parent(s) or brother(s) or sister(s)**

The spouse or civil partner gets the house up to a value of £473,000. They'll get a lump sum of £473,000 if the house is worth more, and may have to sell off the property.

They also get:

- Furniture and moveable household goods up to the value of £29,000.
- Up to £89,000 in cash.
- A half of the rest of the estate (or the entire estate if the cash sum was less than £89,000).

The rest of the estate is divided in half between any surviving:

- Parents.
- Brothers or sisters.

If a brother or sister has already died, their children (nieces or nephews of the deceased) inherit in their place.

## **No spouse or civil partner surviving 28 days**

The estate is:

- Taken by issues in equal shares; but if none:
- Split in two, half goes to the parents and half to the brothers or sisters (nephews and nieces step into their parent's shoes); but if none:
- Shared equally between aunts or uncles (cousins step into their parent's shoes); but if none:
- Shared equally between grandparents; but if none:
- Shared equally between great aunts or great uncles; but if none:
- Shared equally between surviving ancestors; but if none:
- The Crown.

## Northern Ireland

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If the intestate dies leaving:

### **Spouse or civil partner surviving 28 days, but no issue, parent(s), brother(s) or sister(s), nephew(s) or niece(s)**

- Spouse or civil partner takes everything absolutely.

### **Spouse or civil partner surviving 28 days and issue**

- Spouse or civil partner takes personal chattels (car, furniture, pictures, clothing, jewellery, etc).
  - Plus £250,000 absolutely.
  - Plus one-half of the residue (ie balance) where only one child survives and one-third of the residue where more than one child survives. If a child of the intestate predeceases him or her leaving children who survive him or her, the surviving spouse or civil partner takes the same share as if the child had survived.
- Issue takes one-half or two-thirds of the residue depending on whether one child or more than one child survives the intestate.

### **Spouse or civil partner surviving 28 days, no issue but parent(s) or brother(s) or sister(s) or nephew(s) or niece(s)**

- Spouse or civil partner takes personal chattels.
  - Plus £450,000 absolutely.
  - Plus one-half of the residue absolutely.
- Parent(s), failing a parent then brothers and sisters (nephews and nieces step into their parent's shoes if the latter is dead), take one half of the residue.

### **No spouse or civil partner surviving 28 days**

Everything is taken by:

- Issue; but if none:
- Parents; but if none:
- Brothers and sisters (nephews and nieces step into their parent's shoes); but if none:
- Next of kin; but if none:
- The Crown.

*This guide is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking action on the basis of the contents of this publication. The guide represents our understanding of the law and HM Revenue & Customs practice as at December 2015, which are subject to change.*

Thank you for your interest in this Essential Guide. For further information or if you would like to discuss any aspect of the guide, please contact us.

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