

The Rules on Intestacy – Lastingpost.com

Introduction

When a person dies without a valid Will, they are said to have died Intestate. In this situation, the Administration of Estates Act, 1925 sets out the rules as to who receives what.

The Starting Point

The starting point is that any debts, including mortgages and other loans, that the deceased has must be repaid in full.

Specific Family Circumstances

The balance of the deceased's assets can then be distributed. The order in which this distribution takes place will depend on the deceased's specific family circumstances.

1. If there is a spouse and children

The spouse receives the personal chattels and the first £250,000; and a life interest in half of what is left (for example, the income if the money is invested). The capital passes to the children when the surviving spouse dies.

The children share equally between them half of what is left immediately (provided they are 18 or over. If not their share is held in trust until they are 18) and the other half when the surviving parent dies.

If one of the children dies, leaving children then these grandchildren share their parents' share. Stepchildren receive nothing.

2. If there is a spouse but no other relatives

The spouse receives everything.

3. If there is a spouse and relatives but no children

The spouse receives the personal chattels, the first £450,000 and half of what is left.

The deceased's parents, or if they have died, the deceased's brothers and sisters or their descendents share the other half of what is left.

4. If there are children but no living spouse

The children share everything equally. If one of the children has died, leaving children then these grandchildren will share their parent's share equally.

5. If there is no spouse and no children

Everything will pass to the next available group of relatives in the following order:

The deceased's parents;

Brothers or sisters of the deceased who have the same parents;

The deceased's uncles and aunts of the 'whole blood' (which means the brothers and sisters of the parents of the deceased provided they had the same mother and father as the deceased's parents);

The deceased's uncles and aunts of the 'half blood' (which means brothers and sisters of the parents of the deceased who had only the same mother or father);

The Crown (the government).

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