

England and Wales

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 life interest (income only) in 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.

- Plus one-half of the residue on death of spouse or civil partner.

Spouse or civil partner surviving 28 days, no issue but parent(s) or brother(s) or sister(s) or issue of brother(s) or sister(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 (or if a brother or sister has predeceased, their issue equally at 18 or earlier marriage/civil partnership), take one-half of the residue, equally if more than one.

No spouse or civil partner, or spouse or civil partner dying within 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. A child legitimated takes any interest as if born legitimate.
3. An illegitimate child takes any interest provided there is satisfactory proof of parentage.
4. 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.
5. All relatives above are described as blood relationships; therefore the wife of an uncle bearing the courtesy title aunt cannot take.

Scotland

When a Scottish domiciled person dies intestate, the Scottish rules for the devolution of the estate take effect subject to certain rights against the estate that accrue to a surviving spouse or civil partner and the issue of the deceased. These rights must be satisfied before the remainder of the estate can be distributed. There are two types of rights to consider – ‘Statutory Prior Rights’ and ‘Legal Rights’.

Statutory Prior Rights

The Statutory Prior Rights of a surviving spouse or civil partner are:

1. A right to a house in which the surviving spouse or civil partner resided before death and which was owned by the deceased, where the value of the house does not exceed £300,000. In some circumstances, the spouse or civil partner may choose to take the value of the house in money instead of the property itself. If the house is worth more than £300,000, then the spouse or civil partner is entitled to £300,000 in money – ie not the house.
2. The furniture of the house referred to in paragraph 1 above, up to the value of £24,000.
3. The sum of £75,000 (£42,000 if the deceased is survived by issue).

Legal Rights

These are as follows:

Jus relictæ

The right of a widow or civil partner to one-half of the deceased’s movable estate (or to one-third if he or she leaves the children entitled to ‘legitim’).

Jus relict

The equivalent right of a widower in his deceased wife’s movable estate.

Legitim

The right of children (including the surviving children of deceased children who would have held a claim had they survived) to one-third of the net movable estate if there is a surviving spouse or civil partner claiming legal rights, or to one-half if there is no surviving spouse or civil partner, or if the surviving spouse’s or civil partner’s claim has been discharged.

Devolution of Estate

Statutory Prior Rights take precedence over Legal Rights and after all these rights have been satisfied, the intestate’s estate devolves as follows.

Everything is taken by:

1. **Issue;** but if none:
2. **Parents and brothers or sisters** (one-half to parents, one-half to brothers and sisters). If there are no parents, the brothers and sisters take and if there are no brothers and sisters then the parents take. If there are no brothers or sisters or parents:
3. **The surviving spouse or civil partner;** but if none:
4. **Uncles and aunts;** but if none:
5. **Grandparents;** but if none:
6. **Brothers and sisters of grandparents;** but if none:
7. **Remoter ancestors of the intestate generation by generation successively.**

Northern Ireland

If the intestate dies leaving:

Spouse or civil partner, 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 and issue

- Spouse or civil partner takes personal chattels (car, furniture, pictures, clothing, jewellery, etc).

Plus £125,000 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, 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 £200,000 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

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 February 2009, which are subject to change.