

# Distributing the estate of someone dying intestate



When an individual dies without having made a valid will, they die intestate. In such cases, the estate must be dealt with according to the Administration of Estates Act 1925.

## At a glance

- When an individual dies without a valid will, they are considered intestate.
- There are rules for how estates must be distributed if someone dies intestate.
- If the individual has no relatives who qualify to receive their estate, it passes to the Crown, the Duchy of Lancaster or the Duke of Cornwall.

The current rules apply to individuals dying intestate on or after 1 October 2014 and are as follows:

Intestate dies leaving:	Distribution of estate
Spouse or civil partner, no children or grandchildren etc	Spouse/civil partner takes the whole estate, provided they survive for 28 days.
Spouse or civil partner, children and/or grandchildren etc	<p>Spouse/civil partner (provided they survive for 28 days) takes:</p> <ul style="list-style-type: none"> <li>• All personal possessions</li> <li>• For deaths occurring before 6 February 2020, £250,000 free of tax, with interest payable at the Bank of England base rate</li> <li>• For deaths occurring between 6 February 2020 and 25 July 2023 (inclusive), £270,000 free of tax, with interest payable at the Bank of England base rate</li> <li>• For deaths occurring on or after 26 July 2023, £322,000 free of tax, with interest payable at the Bank of England base rate</li> <li>• One half of the balance outright</li> </ul> <p>The children inherit the other half equally but will not receive their inheritance until they reach 18 or marry/form a civil partnership under 18. Until then, their inheritance is managed for them. Grandchildren (or great grandchildren) can only inherit if their parent or grandparent dies before the intestate or their parent is alive when the</p>

	intestate dies but dies before reaching the age of 18 without having married or formed a civil partnership.
No spouse, but children	The estate is shared equally between the children or their descendants. If a child has already died, their children (the grandchildren of the deceased) inherit in their place.
No spouse, civil partner or children and/or grandchildren etc	<p>The entire estate passes to the following blood relatives. Each category is relevant only if there are no members in the preceding category:</p> <ul style="list-style-type: none"> <li>• Parents (equally, if both alive)</li> <li>• Brothers and sisters (or the children/grandchildren of any sibling who died before the intestate)</li> <li>• Half brothers and sisters (or their children/grandchildren as above)</li> <li>• Grandparents (equally, if more than one)</li> <li>• Uncles and aunts (or their children/grandchildren)</li> <li>• Half uncles and aunts (or their children/grandchildren)</li> </ul>

In all cases, if the individual had no relatives in the above categories, the entire estate passes to the Crown, the Duchy of Lancaster or the Duke of Cornwall.

### Rights of surviving spouse or civil partner

Where the estate includes the house in which the surviving spouse or civil partner is living at the date of the death, they may require the house to be transferred into their name in or towards satisfaction of their inheritance. The survivor must give notice of their intention to exercise this right within 12 months of the grant of representation being issued.

### Variations to the statutory provisions

Any adult beneficiary of an intestate estate may disclaim their entitlement. The effect of such a disclaimer is to erase their interest, so that the estate is then distributed as if the beneficiary had never existed.

Any adult beneficiary who inherits the whole or a part of the estate can redirect his inheritance to someone else by deed of variation. The deed must be completed within two years of the death to qualify for certain tax advantages.

### Meet our experts

Our experienced team operates nationwide. For further advice, please get in touch with your local contact.

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