



By Miranda Marshall – Director at
Hayes + Storr

No Will Power?



Are you amongst the two-thirds of people who risk dying intestate?

New rules are to apply to the estates of those who die without a Will. To die without a valid Will is to be 'intestate'. The Inheritance and Trustees' Powers Act 2014 is now on the statute book and will become law on 1st October 2014.

The position until October, where the deceased person dies intestate and leaves an estate worth more than £450,000, and is survived by a spouse/civil partner but where there are no children, is as follows: the survivor receives the 'personal chattels' (i.e. household furniture and other contents, car, jewellery, etc) but shares the remaining estate with the deceased's parents. The spouse/civil partners gets £450,000 and half the balance, with the other half of the balance going to the parents equally. If there are no parents alive, the deceased's siblings or their children take. The new rules give the spouse/civil partner in such circumstances 100% of the rest; which is thought to be much closer to the wish of the majority.

Where the intestate was married (or in a civil partnership) and had children, the current rules are complex and involve trusts. Here the spouse/civil partner takes the chattels and the first £250,000. The balance is split into equal shares. One half passes to the children but is held on 'statutory trusts' until they reach 18, which contain old fashioned and inflexible provisions. The other half passes into a life-interest trust which allows the spouse only income arising and no right to the capital. The new rules still allow for half the residue over the £250,000 to go to the children but now the other 50%

goes entirely to the surviving spouse, without the complexity and restriction of a life interest trust.

The £250,000 'statutory legacy' passing to the survivor is now to be increased each 5 years in line with inflation in line with the Consumer Prices Index. It last rose in 2008.

Whilst these new measures certainly simplify matters, the best defence is to avoid intestacy altogether. Failure to leave a valid, up-to-date Will causes headaches for the family of the deceased. Not only do assets pass to people that the deceased would not have wished, but an intestate estate invariably takes longer to administer.

And for those people who are unmarried (or not in a civil partnership) and have no family, or only unknown and distant family, the situation can be particularly dire. If you have no children, parents, siblings, nephews, nieces, grandparents, uncles, aunts or first cousins then without a will your estate will be what is called 'Bona Vacantia', which means that all your money will go to the state.....and you know how well they spend our money!

"This article aims to supply general information, but it is not intended to constitute advice. Every effort is made to ensure that the law referred to is correct at the date of publication and to avoid any statement which may mislead. However no duty of care is assumed to any person and no liability is accepted for any omission or inaccuracy. Always seek our specific advice."

If you require advice on this matter please contact Miranda on 01328 710210. If you require advice on any other legal matter please telephone our Wells office on 01328 710210 or email law@hayes-storr.com.

Hayes + Storr – The North and West Norfolk Solicitors

www.hayesandstorr.co.uk | law@hayes-storr.com

Fakenham • Holt • Hunstanton • King's Lynn • Sheringham • Wells