

Intestacy Law Reform – Consultation

Since the majority of people die without making a will, it is perhaps surprising that so many people still believe that when someone dies intestate, the spouse or nearest relations automatically receive the whole estate, no matter how large. This is not the case.

Because of the way intestacy rules apply in the UK, there are now over 9,000 cases a year in which the spouse of a deceased person does not receive the whole estate. Last year, nearly 4,000 family homes needed to be sold as a result of intestacy.

In the UK, depending on circumstances, the spouse of someone who dies intestate will receive the first £125,000 of the estate where there are also children. If there are no children but there are parents or siblings, the spouse will receive the first £200,000.

Currently, nearly sixty per cent of UK estates exceed £125,000 and more than a fifth are over £200,000. The Department for Constitutional Affairs has recently completed a consultation process which it is hoped will lead to an increase in the above limits and thereby reduce the impact of intestacy. It is proposed to increase the limits to £350,000 and £650,000 respectively.

“The legislation necessary to bring this about is unlikely to come into force until late 2006 at the earliest, so there is no excuse for not having a will,” says <<CONTACT DETAILS>>. “In any event, a specific bequest to a person can only be guaranteed if a will is executed.”

Partner Note

The Department for Constitutional Affairs issued a discussion paper in July 2005. If you would like to have a copy of our article on the operation of intestacy law with regard to the division of estates, please contact us.