

## KEY FEATURES AND BENEFITS 26

# The Rules of Intestacy England & Wales

### **IF YOU DO NOT LEAVE A VALID WILL YOUR ESTATE WILL PASS IN ACCORDANCE WITH THE RULES OF INTESTACY.**

The Rules of Intestacy set out who is entitled to inherit from your estate if you do not leave a valid Will. If you do not leave a Will your money and possessions will be distributed according to the legislation laid down in the Administration of Estates Act 1925. If you have no relatives, the Crown is entitled to take everything.

If you are married, or in a civil partnership, the first person entitled to your estate under the Intestate Rules is your spouse/civil partner, but he or she will not necessarily inherit the whole of your estate (the Civil Partnership Act 2004 came into effect on 5th December 2005 and gave same-sex couples the right to register their partnerships, giving them broadly the same legal rights as married couples).

In 2019, the Civil Partnerships, Marriages and Deaths Act came into force providing for the extension of civil partnerships to couples not of the same sex."

The amount your spouse/civil partner would inherit depends on how much is in your estate and whether your spouse/civil partner had any descendants. Assets held in joint names pass automatically to the other joint owner(s) and do not form part of your estate for the purposes of Intestacy (if you are unsure about the type of joint ownership you share with another, you should consider seeking legal advice).

It is possible for beneficiary(s) of an Intestate Estate to enter into a Deed of Variation. For more information on Deed of Variation please refer to the Client Support Information Deed of Variation.

### **THE INTESTACY RULES IN A SIMPLIFIED FORM**

If any of the following circumstances apply to you, the Intestacy Rules may not cater for your situation in the way that you would wish:

- You are living together but are not married or in a civil partnership but wish your partner to inherit some or all of your estate.
- You have no living relatives and wish to leave your estate to your friends or to charity.
- You are married or in a civil partnership and don't wish your spouse/civil partner to inherit anything.
- You are married or in a civil partnership and have children from a previous relationship and you wish to control how much your children receive from your estate and when.
- You have dependant relatives e.g. Children under the age of 18, elderly relatives or relatives with a disability who have special needs and you want to make sure that they are looked after and provided for. (If you make a Will you can appoint guardians to look after your children and set up a Trust or Trusts in your Will to provide for your intended beneficiaries.

- Your estate is large and may be liable for Inheritance Tax and you may wish to make arrangements for tax planning.

The Inheritance and Trustees' Powers Act 2014 came into effect on 1st October 2014. The changes apply to England and Wales only and not Scotland or Northern Ireland.

### **IN A NUTSHELL, THE RULES FROM 1ST OCTOBER 2014 AS AMENDED BY STATUTORY INSTRUMENT 2020 NO.33, ARE AS FOLLOWS**

If you die without a Will and have a surviving spouse or civil partner:

- If you have no surviving children or other relatives, everything passes to your spouse or civil partner.
- If you have surviving children, your spouse or civil partner receives the chattels (personal belongings, household goods, jewellery, antiques and paintings). They will also receive a legacy of £270,000 and half the remainder of the estate. The other half of your estate will pass to your children absolutely, or held for them in a statutory trust until they reach the age of 18.
- If you have no children or grandchildren your surviving spouse or civil partner inherits the whole estate.

### **NO SURVIVING SPOUSE OR CIVIL PARTNER**

Your children will share everything. If any of your children have not survived, their own children (i.e. your grandchildren) will inherit their share.

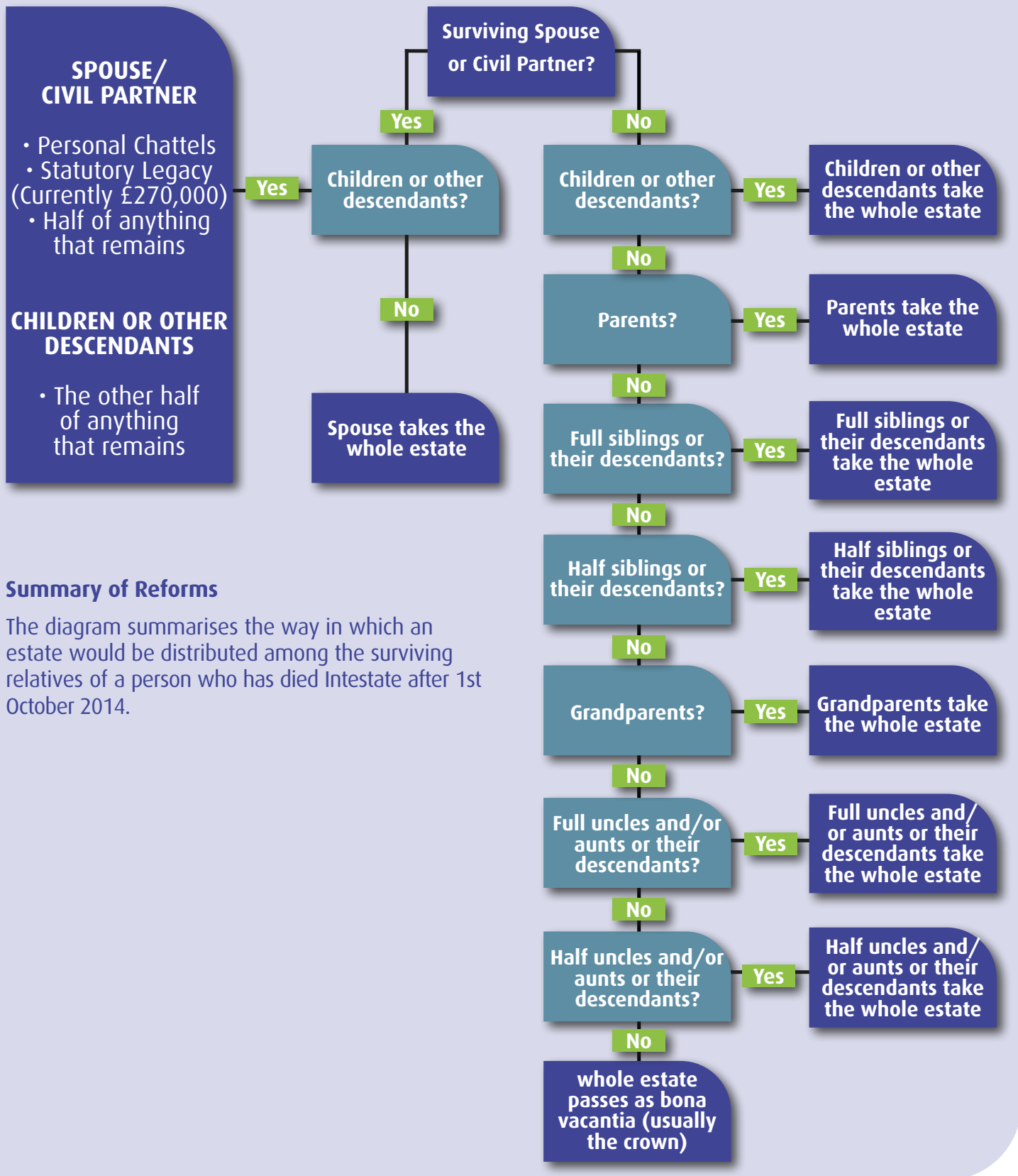
### **NO SURVIVING CHILDREN OR OTHER DIRECT DESCENDANTS (INC. GREAT GRANDCHILDREN)**

The rules for this scenario are as they always have been, in that your estate will be inherited by your other relatives in the following order:

- Your parents.
- Your brothers and sisters of the whole blood, or their children if your siblings have not survived you.
- Your brothers and sisters of the half blood, or their children if there is no surviving parent.
- Your grandparents.
- Your uncles and aunts of the whole blood or their children.
- Your uncles and aunts of the half blood or their children.
- The Crown.

**PLEASE SEE OVERLEAF FOR SUMMARY OF REFORMS.**

# THE LAW OF INTESTACY



## Summary of Reforms

The diagram summarises the way in which an estate would be distributed among the surviving relatives of a person who has died Intestate after 1st October 2014.

This sheet contains only general planning and is not to be construed as advice for any personal planning. Each strategy recommended is based on individual circumstances.

For more information please contact us on: