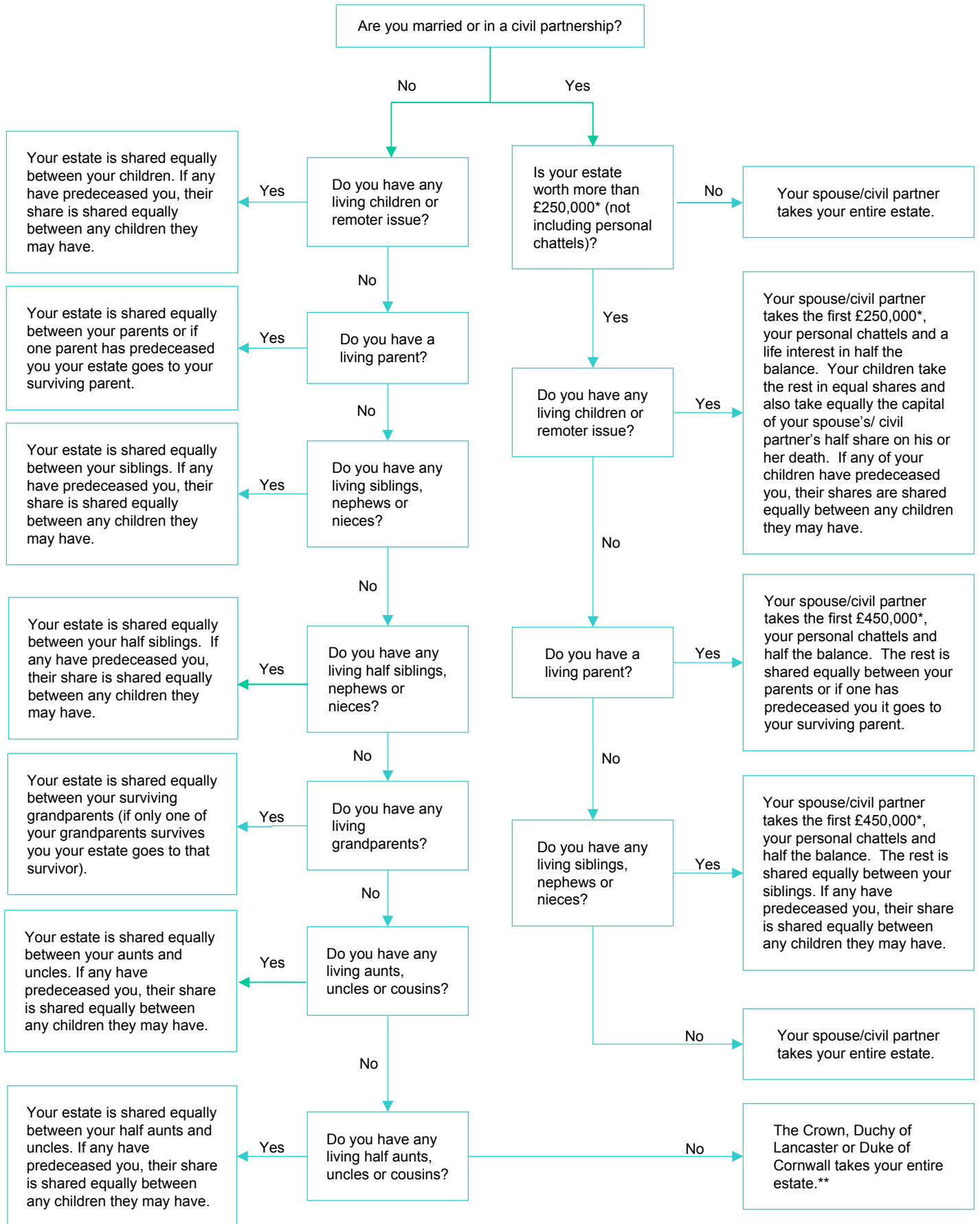


The Devolution of an Estate on Intestacy in England and Wales*



*See notes on the the review of the intestacy rules generally.

**The Crown, Duchy of Lancaster or Duke of Cornwall may decide at their discretion to provide for your dependants. Otherwise, in the absence of a claim under the Inheritance (Provision for Family and Dependants) Act 1975 (see over) your estate will be distributed for charitable purposes.

Application

The intestacy rules will apply if you die domiciled in England and Wales without a will. They will also apply to any assets that are not covered by your will, if you have made one.

They may also apply to property that is situated in England and Wales, even if you are domiciled elsewhere. Foreign property and succession rules may apply to property outside England and Wales, in priority to the intestacy rules, regardless of your domicile.

Estate

Your estate includes all property held by you or for you absolutely at the time of your death including cash, bank or building society accounts, stocks and shares and other investments, land and chattels.

Types of property that do not follow the intestacy rules:

Joint property: Property (for instance a house or bank account) held by you with another person or persons, as joint tenants, will pass by survivorship to the remaining joint tenant or tenants.

Insurance policies: On your death, the proceeds of life insurance policies taken out for specified individuals, or assigned into trust during your lifetime, will pass directly to those individuals or that trust, regardless of the intestacy rules.

Pension/Death benefits: Pension schemes and employment contracts may provide for payment of benefits if an employee dies in service. These benefits are normally paid at the discretion of the trustees but you may be allowed to indicate who you would like to benefit.

Letters of Administration

Letters of Administration which confer authority to administer your estate are granted if you die wholly intestate. They may be granted to any person beneficially interested in the estate, including your creditors, but if you have a surviving spouse or civil partner, he or she will be entitled to the grant in priority to any other person. However, if a life or minority interest arises under the intestacy, an additional person will normally need to be appointed.

Surviving Spouse/civil partner

Your spouse/civil partner must survive you by 28 days before he or she can take any interest in your estate. Your spouse/civil partner has the right (within a year of the Grant of Probate (if there is a will) or Letters of Administration) to require his or her life interest to be capitalised and/or to have transferred to him or her an interest in the house in which you were both living at the time of your death (up to the value of the amount to which he or she is absolutely entitled). If the interest in the house is worth more than your spouse/civil partner is entitled to, he or she may still take that interest on paying the difference.

Children

All references to children include legitimate, legitimated, illegitimate and adopted children.

The shares of children who are under 18 are held in trust until they attain 18 (or marry or enter into a civil partnership under that age), when they receive their shares absolutely.

Father/Other parent

If your parents were not married at the time of your birth, it is presumed that your father and any other paternal relations have not survived you, unless the contrary can be shown. A similar rule applies in relation to children born to a female same sex couple as a result of qualifying AID or IVF treatment if the parents were not in a civil partnership at the time of the birth. In that case the other parent and her relations will be presumed not to have survived the intestate.

Claims for Financial Provision

If you die domiciled in England and Wales, your family and dependants may make a claim under the Inheritance (Provision for Family and Dependants) Act 1975 if the provision otherwise made for them is inadequate.

Review of the intestacy rules

The Law Commission began a general review of the law on intestacy and the operation of the Inheritance (Provision for Family and Dependants) Act 1975 on 1 October 2008 and published a consultation document in October 2009. It is expected that a report and a draft bill will be published in late 2011.