

Update: 22 March 2012 What happens if I die without a will?



Fleming Muntz
Solicitors



Summary

If you die without a will you are said to die "intestate". When you die intestate, are resident in NSW and your assets are held in NSW, there are statutory rules that set out who is entitled to your property. The effect of these rules may be that your assets are not distributed in the way you would have wanted.

Who will inherit my property if I die intestate?

It is a complex area of law, and depends upon the relationships you had immediately prior to death and the relatives that survive you.

If you were to die leaving a surviving spouse (including a de facto spouse or same-sex partner with whom you have co-habited for at least 2 years), then your spouse will receive all your estate. This is the case even if you have children of that relationship.

If you were to die leaving a surviving spouse and a child who is not a child of your spouse, your spouse will take all of the household chattels, up to \$350,000.00, and one half of the residue of the estate, with the child taking the rest. If there is more than one child, then your spouse takes the chattels, up to \$350,000.00, and one half of the residue of your estate, with your surviving children sharing the remainder.

If you die without leaving a spouse or children surviving you, then the statutory rules provide for distribution to your:-

- Parents; then
- Brothers and sisters; then
- Nieces and nephews; then
- Grandparents; and finally,
- Aunts and uncles.

It is only in exceptional situations where a person dies with no close relatives surviving them that the government will take their property.

How can Fleming Muntz help?

The legal procedures to deal with an intestate estate are often complicated and time-consuming, and invariably cause expense and worry to your family. The solution is to ensure that you have a valid will, which distributes the whole of your estate in accordance with your wishes.

Fleming Muntz has experienced estate planning lawyers who are skilled in the provision of advice on life and death planning, and would be pleased to assist you or your clients in making a will.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to enquiries@flemingmuntz.com.au.

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