

## WHAT HAPPENS WHEN YOU DIE WITHOUT A WILL?

In South Africa, if you die without a Will, your estate will dissolve according to the rules and regulations of the Intestate Succession Act

## WHAT ARE THE RULES OF INTESTATE SUCCESSION?

1. If you are survived by your spouse/spouses but not by any child/children?  
Your spouse/spouses will inherit everything from your estate.



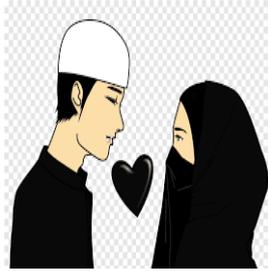
Who is a spouse according to Intestate Succession Act?



**Any person married under the Marriages Act.**



**Any person who is married under customary law which is recognised under Section 2 of the Recognition of Customary Marriages Act 120 of 1998 (this includes those who were married under customary law before the Act came into operation)**



Any person married according to Hindu or Muslim religious rites.

2. If you are survived by your child/children, but not by a spouse.

The child/children will inherit the intestate estate.



3. If you are survived by a spouse or spouses, as well as your child/children.

The spouse or spouses inherit the **greater of R250 000** per spouse or a child's share, and the children the balance of the estate. A child's share is determined by dividing the intestate estate by the number of surviving children of the deceased and deceased children who have left children, plus the number of surviving spouses.

Example of the child's share in the event of a polygamous marriage:

In this case the value of the intestate estate is R2 000 000. The deceased is survived by two spouses and three children. A child's share amounts to R400 000 (being R2 000 000 divided by five: the three children and the two spouses). The child's share is greater than R250 000. Therefore each spouse will inherit R400 000 and each child will inherit R400 000 (R2 000 000 less R800 000 to the spouses, divided by three).

Example of the child's share in the event of a monogamous marriage:

In this case, the same calculation will apply as in the previous example, only the child's share is calculated by dividing the value of the intestate

estate by four. The surviving spouse and each child will each inherit R500 000.



4. If you are survived by no children and spouses, but both parents who are alive.

Both parents will inherit the intestate estate in equal shares.



5. If you leave behind no children or spouse but are survived by one parent, while your deceased parent left descendants (brothers/sisters of the deceased).

The surviving parent will inherit one half of the intestate estate and the descendants of your deceased parent the other half.



6. If you leave no spouse or children but leave one surviving parent, while the deceased parent did not leave any other children?

The surviving parent will inherit the whole estate.



**7. If you do not leave a spouse or children or parents, but both your parents left children.**

The intestate estate will be split into equal parts. One half of the estate is then divided among the descendants related to the deceased through the predeceased mother and the other half among the descendants related to the deceased through the predeceased father.



**8. If you do not leave a spouse, children or parents, but only one of your late parents left children?**

The descendants of the predeceased parent who left descendants, will inherit the entire intestate estate.



**9. If you are not survived by a spouse, children, parents or siblings?**

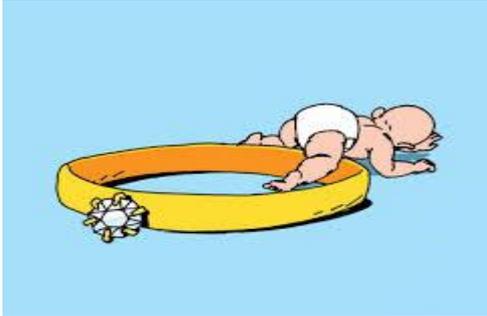
The nearest blood relation inherits the entire intestate estate.

**10. If you are not survived by any relative.**

Only in this instance will the proceeds of the estate devolve on the state.

### 11. What is the position regarding a child born out of wedlock?

A child born out of wedlock can inherit from both blood relations, the same as a child in wedlock.



### 12. What is the position regarding a child you may have adopted?

An adopted child will be deemed to be a child of his adoptive parent or parents; and not to be a child of his natural parent or parents, except in the case of a natural parent who is also the adoptive parent of that child or was, at the time of the adoption, married to the adoptive parent of the child.

