

# Spouses and civil partners to receive more when partner dies without leaving a will



October 2008

Proposals published by the government at the end of the summer will allow married couples and civil partners to benefit from a larger statutory legacy when their spouse or partner dies without making a valid Will. From 1st February 2009 the new levels of the statutory legacy will increase to £250,000 (where there are children of the deceased) and £450,000 (where there are not). Any assets – property or otherwise – above the value of this statutory sum then fall into a complex life interest system.

## What is a Statutory Legacy?

A key reason for making a valid Will is to avoid the uncertainty of an Intestacy, where your property is divided between your family according to strict rules set out by law. The most fundamental of these rules is the statutory legacy which allows a spouse or civil partner to claim a legacy of a certain sum from their spouse or partner's assets. Unless property is jointly owned, the law does not allow one spouse or civil partner automatic access to the entire property of the other, but sets a cap on this according to whether the deceased had children who also become entitled under an Intestacy.

This lack of control of essential funds and assets – often including the family home if held in the sole name of the spouse or partner who has died – can make the continued finances of the family difficult.

The government has acted after concerns that the levels of the statutory legacy, currently set at £125,000 and £200,000, were too low.

Justice Minister Bridget Prentice said:

*'This increase will give extra protection to married couples and civil partners whose spouse or civil partner dies without making a will. But it also highlights how important it is for both men and women to make arrangements for their loved ones in the event of their deaths.'*

*'Married couples and civil partners should not assume that when their spouse or civil partner dies, they will automatically be entitled to everything. It is up to individuals to make sure that their wishes are respected by making a will.'*

*'My message to people is, don't leave it to chance. Make sure your loved ones are properly provided for by leaving a will.'*

We would always advise that you check the validity of your Will at regular intervals to ensure that your assets will pass into the control of those that you choose to benefit. Please remember that divorce and marriage can both invalidate provisions of an existing Will, and that 'home-made' Wills are vulnerable to invalidity on a myriad of grounds.

Please note: this announcement is made following the analysis of the responses to the Ministry of Justice's consultation paper: Administration of estates - review of the statutory legacy (CP 11/05) published in 2005.

For more detail, please see their website at:

<http://www.justice.gov.uk/news/newsrelease280808a.htm>

For further information about Intestacy or to review your current Will provision, please contact us at [law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk) or by telephone on **020 8441 1556** or **020 8364 9955**.

1 Cockfosters Parade, Cockfosters,  
Hertfordshire EN4 0BX

[www.parkeswilshirejohnson.co.uk](http://www.parkeswilshirejohnson.co.uk)

Tel: 020 8441 1556  
DX: 49956 Cockfosters  
Fax: 020 8449 5774

[law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk)

Highstone House, 165 High Street,  
Barnet, Hertfordshire EN5 5SU

[www.parkeswilshirejohnson.co.uk](http://www.parkeswilshirejohnson.co.uk)

Tel: 020 8364 9955  
DX: 130034 Barnet 3  
Fax: 020 8364 9959

[law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk)