



## Information Article

### ‘NEXT of KIN’

(& Similar Terminology)

Also holds  
life saving  
medical  
information



**This could save your life!**

**Fast contact with your  
family in an emergency!**



## Relevance

**HUMANITARIAN** (FAMILY etc) **ASSISTANCE** (Providing Information, Welfare & Similar)

As provided by airlines to **AIRCRAFT ACCIDENT VICTIMS** (i.e. Air and / or Ground Victims) and their associated **FAMILY, RELATIVES and FRIENDS** (i.e. not being Air and / or Ground Victims)

Airlines, Airports, Ground Handling Agents etc. (amongst others) involved in responding to a catastrophic (mass fatality) aircraft accident / aviation disaster (or similar impact crisis) **must** clearly understand the implications of the term ‘**next of kin**’ (and associated terms such as ‘**closest relative**’; ‘**blood relative**’; ‘**emergency contact person**’; ‘**consanguinity**’ etc.)

This should be achieved (for the purposes of this info article) in the context of the particular circumstances of the particular crisis e.g. the nature and geographical location of the crisis; nationalities, religions, customs, culture, ethics etc. of those on board; nationalities, religions etc. of associated family, relatives & friends (not having been on board the accident flight etc.); appropriate laws (including ‘religious’ law e.g. Sharia) and regulations etc.





## Preamble

What follows is not definitive. Rather it is based on the (hopefully) 'considerably informed opinion' of the author of this info article, and should be accounted for as such accordingly

Nevertheless, this article does provide a good start in better understanding & managing what is undoubtedly a difficult subject for many airlines, airports, ground handlers (GHAs) etc. to deal with. To find out a little more about the author, please follow the below link:

<https://www.aviationemergencyresponseplan.com/about-us/>

The reader should be aware that some of the information contained herein may be out of date and, with the passage of time, might become more out of date (as this info article might not be regularly updated). It is thus for the more 'interested' reader / user to ensure that appropriate action is taken (if so desired) to acquire the most up to date info available - as related to this subject

## Introduction

In the shorter-term aftermath of a mass fatality catastrophic aircraft accident / aviation disaster (or similar impact aviation related crisis) the accident airline / air carrier (in conjunction with many others - possibly including airports, ground handling providers, the 'authorities' [e.g. all levels of government - including embassies and consulates etc.], emergency services, military / para-military / coastguard etc., mortuaries, coroners / medical examiners, funeral directors, faith and voluntary organisations - and so on) will typically be **required** to **communicate** with and **provide information, humanitarian, welfare and other forms of support** and **services** to **surviving accident victims**

They will also need to do likewise for the associated **family, relatives & friends** (FR) of **all** accident **victims** (whether such victims survive or not; whether they were on board the accident aircraft or on the ground) - wherever in the world such FR might be. (See '**Victim**' & '**FR**' definitions - next page)

The above **requirement** (provision of information, humanitarian assistance - and the 'rules / protocols etc.' regarding to whom same should be addressed / provided etc.) **can** (depending on actual accident and associated circumstances) **be dictated by** e.g. **law** (including religious law) / **regulation, code of conduct, best practice, custom, culture and ethics, airline policy** (in certain circumstances) etc.

**IN MANY SUCH SITUATIONS, IT CAN BE ANTICIPATED THAT THE APPROPRIATE LAWS / RULES OF INHERITANCE WILL BE APPLIED IN DECIDING SUCH MATTERS** (see '**Inheritance**' definition - page 4)

Note: Many airlines from **developed** countries have still yet to properly define (insofar as this is practicably possible), document and train in the subjects of notification and humanitarian assistance (as described above) - from the viewpoint of all of the various aspects of **who is the next of kin / closest relative / emergency contact person etc.** targeted / required / legislated etc. to receive same? This is particularly so with regard to **international** flight operations and the consequent different interpretations (of 'next of kin' etc.) involved

This problem 'in its own right' is significantly exacerbated in **developing** and **least developed** countries (as defined by the United Nations)





#### DEFINITION - **Victim**

**For aircraft accident purposes**, the term 'victim' (as used herein), refers collectively to **all** on board the 'accident aircraft' (**air victims**) - together with any **other** person(s) **directly** involved (third parties not having been on board the accident aircraft) as a consequence of said accident. The latter refers specifically herein to '**ground victims**' - i.e. those killed, injured and / or traumatised (immediately for those so killed / injured and [as appropriate] in due course for traumatising) as a **direct** consequence of the aircraft hitting the ground or similar / equivalent circumstance

(Note that the term '**victim**' does not refer to the dead alone nor is it a term which should be associated with others who might be termed herein as **indirectly** involved [**no matter how closely**] by the emergency e.g. family, relatives & friends [FR] of victims - where such FR had **not** been travelling on board the accident flight - and who also **cannot** be classified as **ground victims** - are considered herein to be **indirectly** involved

Note also that the corresponding 'International Civil Aviation Organisation's [ICAO]' definition of Victim is very similar i.e. '..... An occupant of an aircraft, and / or any person outside the aircraft, who is unintentionally, directly involved in an associated accident involving that aircraft. Victims may include the crew, revenue passengers, non-revenue passengers and **third parties** [i.e. ground victims].....')

#### DEFINITION - **Family, Relatives & Friends - FR**

A collective, generic term - **loosely** denoting herein the various categories of persons (**NOT** having been on board the accident flight OR meeting the definition of 'ground victim') **having some form of valid relationship or otherwise** (personal / equivalent) link with associated air accident **victims** (including any **ground** victims) - as applicable

The term typically includes (as related to and / or otherwise 'known' to victims) (list not exhaustive):

- \* **Next of Kin** (closest relative / equivalent person)
- \* **Other family members**, relatives / equivalent
- \* **Friends**
- \* **Pre-nominated 'emergency contact' person(s)** (i.e. as pre-nominated by an associated victim)
- \* Close **Business colleagues** / equivalent
- \* **Meeters and Greeters** (of all categories including those above and below) **waiting to meet victims** at the emergency flight's destination airport(s) and / or **FR** who have gathered at the **departure** airport(s) of the emergency flight - (after it had departed [i.e. after it is 'off-blocks']) and subsequently experienced a crisis
- \* Any other person(s) having a **reasonably valid relationship** with the victim(s)

*Reminder: By definition, '**Meeters & Greeters**' & **FR** referred to above would **not** have been travelling on the accident aircraft **nor** would / could they be classified as 'ground victims'*





In countries / jurisdictions etc. where the implications / practices (legal, humanitarian, religious etc.) of 'next of kin', 'closest relative' etc. type \* matters may have already been (typically legally) addressed and explained, they can **still** be so relatively complex, that it might be best left to subject matter experts / practitioners (e.g. specialist lawyers) to 'sort out' - in actual day to day practice and application

\* As already mentioned, such matters are typically (but not always) related / tied-in to the rules of **inheritance**

Where such implications / practices have **not** been adequately addressed, the inevitable consequences will result in greater or lesser degrees of confusion in the associated areas, including those related to aircraft accidents, as described herein

#### DEFINITION - **Inheritance**

'Inheritance' (generally speaking) refers to the practice (legal and / or otherwise e.g. as may be dictated by religion; custom & culture etc.) of the 'passing on' (transfer) of money, property, titles, debts, rights, obligations etc. - following on from the death of an associated individual

'Rules' of inheritance differ between 'societies, administrations' etc. - typically 'evolving over considerable time

Apart from the use described above, **inheritance type rules / practices** etc. have been adopted in **some** countries / jurisdictions / societies etc. as a guide as to who might be the most appropriate person(s) (e.g. next of kin / closest relative / emergency contact person etc.) to best receive details of notifications and associated information concerning accident victims (including air accident victims); potentially receive **associated** humanitarian and other forms of support (including financial assistance) etc.

Generally speaking, the 'category' of persons (from the FR definition shown on the **previous** page) most likely to be communicated with and **possibly** supported (e.g. provision of humanitarian assistance; financial assistance etc.) by the accident airline are:

- First Priority - next of kin / closest relative
- Next Priority - other family members / relatives etc. - in the priority order listed on page 7

However, for purely '**communications / notifications**' purposes, it is likely that any **pre-nominated** 'emergency contact' person(s) (i.e. as pre-nominated by any actual victim(s) of any particular aircraft accident situation) will take priority over those categories of persons listed immediately above (**unless** such emergency contact person **also** fits into one of these categories, of course)

However, in extreme circumstances (e.g. **no** family, relatives and / or emergency contact persons **become known to the accident airline** in a pre-defined [or otherwise deemed necessary] time-frame post-accident) said airline might instead communicate with **others** (that it is aware of) listed under the FR categories (see previous page) in an effort to 'move matters forward' (concerning such situation) in a timely manner. (See also boxed information shown at the top of the **next** page):





**INFO - Next of Kin / Closest Relative / Equivalent Person / Emergency Contact Person**

**'Next of Kin' / 'Closest Relative' / 'Equivalent Person' / 'Emergency Contact Person'** etc. - typically (**but not always**) refers to the closest **related** person (**not** being an air or ground victim for the purposes of this **specific definition only**) as associated (in some **valid** way) with a victim (including a ground victim) of a specific catastrophic aircraft accident (or equivalent event)

Note that the words 'related' and 'valid' as used above can and do have many different / flexible interpretations around the world - i.e. legal, quasi-legal, best practice, custom / culture / tradition, religious, informal etc. For example, an 'emergency contact' person **pre-nominated** by a victim need not be related to that victim (**but should nevertheless be the first to be contacted**, circumstances 'on the day' requiring / permitting)

This entire subject is, in general, both complex and suffers (especially in the context of a catastrophic aircraft accident or equivalent event) from a distinct lack of clear, explanatory guidance material - mainly because there isn't (in reality) much 'clear' guidance to refer to

Given what has been stated in the last paragraph of the boxed info immediately above, what chance does the average airline etc. have in e.g. providing adequate crisis related communications and humanitarian support etc. to the **correct / most appropriate** FR(s) - i.e. typically (but not always) to the next of kin / closest relative and / or equivalent person(s)? (Note - providing same [i.e. communications; humanitarian support etc.] to **surviving** accident **victims** themselves is obviously far less complex - circumstances 'on the day' so permitting)

In the first instance, the accident airline should immediately attempt to identify and start communicating with the associated FR of its accident victims (in the manner already described herein)

If that airline has a good, well-resourced, trained and exercised emergency response plan (**BUT NOTE WELL HERE THAT MANY AIRLINES DO NOT!**), communicating with such FR in principle typically (but not always) presents no particular difficulties which cannot be reasonably dealt with given **adequate time** so to do

A **problem** arises, however, as the concept of 'taking adequate time' will typically **NOT** be acceptable 'to the world in general' (+ surviving victims, associated FR of all the accident victims and the 'media' [including social media] in particular) in the unique circumstances applying to such situations

In stark contrast to what has been written immediately above - for any airline to consider all of the possibilities of finding out e.g. where in the world (which countries) the **victims** are citizens / nationals of + then combining this with finding / identifying their **associated FR** etc. + ascertaining their citizenship / nationality also - is (for the foreseeable future) 100% **NOT** compatible with the 'quick results' the 'world' (in general) would definitely be looking for. That is, if accomplished 'properly / correctly / diligently etc', the task will typically take some considerable time





This latter 'problem' is exacerbated if the airline concerned flies to many different countries e.g. in late 2020 one (real and well-known) international airline operated to 60% + of the world's **countries** - and in so doing flew over just about every other country in the world (over and / or on **any** of which an aircraft accident might, in theory, occur - **and of which its passengers and their associated FR might be 'citizens / nationals'**)

It is compounded even further (very significantly in fact) if the accident airline is required (\*) as it is in many 'jurisdictions' around the world) to comply with **personal privacy / data protection** type law; regulation; code of conduct; best practice etc.

\* Very approximately, around 100 to 140 countries around the world are believed to have **personal privacy / data protection** type legislation / regulation etc. (in one form or another) in place (correct as at late 2020)

The vast majority had (at that time) almost certainly **failed** to provide adequate (if any) 'exemptions / alternative measures' to such legislation, regulation etc. - to account for the essential requirement to rapidly share, process etc. such personal information (data) - following (and as related to) a **major humanitarian related disaster** - including (for the purposes of this information article) the catastrophic (mass fatality) aircraft accident / aviation disaster type situation

Such failure can (as has already happened 'for real' in previous major crises) seriously hinder (unreasonably get in the way of) the effectiveness, efficiency and expediency of such emergency / crisis response operations - particularly in the areas of humanitarian assistance related communications (of all types) and provision of related support measures

Interested readers will find further details of the subject area referred to immediately above (In a *separate* 'information article') at:

<https://www.aviationemergencyresponseplan.com/information/>

When you get to the webpage at the end of the above link, scroll down until you find the 'information article' entitled:

\* **Information Article - 'Data Protection Aspects of Airline Emergency Response Ops'**

Click on the article to open and read it

To reiterate, whilst (e.g. from legal and / or religious and / or similar viewpoints) it might **eventually** be possible in many (but by no means all) cases to \*\* establish who is the appropriate next of kin / closest relative etc. - this is likely to take some time, possibly running into weeks - or even longer in extremis

\*\* Typically via embassies, consulates, checks of travel booking and equivalent / similar records (e.g. Passenger Name Records - PNR), passport records, security related records (e.g. Advanced Passenger Information [API / APIS] and similar data), liaising with FR themselves etc.







From the humanitarian viewpoint specifically, it will be 100% unacceptable for the accident airline to be required to make FR (*in general*) wait an unduly long time for information about associated victims, until e.g. such time as the '**correct / appropriate / specific**' FR (being the next of kin / closest relative etc.) can be found / ascertained and notified **first / before all of the others** (again, the former might take weeks or even longer - or even not be possible at all)

Furthermore, the accident airline will be under the most intense pressure from the media, 'known' FR themselves etc. to provide appropriate information immediately it becomes known. If the airline does not do so (for whatever reason) the adverse risk to its brand, image and reputation can be considerable - to the extent that even its very existence might be threatened, in extremis

So what is the accident airline to do in this '**between a rock and a hard place**' type situation?

There is no obvious 'one solution fits all' answer which avoids the significant risks of getting it wrong legally and / or ethically and / or morally and / or reputationally - with the attendant consequences

In the end, all of this will typically be a judgement call by the airline and its advisors - but **MOST IMPORTANTLY**- is a call **which it should have ALREADY decided and documented in principle** (having taken appropriate expert advice etc. beforehand) when preparing and / or updating (and training / exercising in) its emergency response plans with regard to such matters

**As a generic example only**, many (but by no means all) countries / jurisdictions around the world recognise (legally or quasi-legally or by custom / culture / ethics/ religion or by best practice etc.) the 'Next of Kin' / 'Closest Relative' as being one of those \* persons listed below - **typically being in the 'priority' order listed** (i.e. from top to bottom):

1. husband or wife (or civil partner [often with provisos] - same sex or otherwise)
2. son or daughter (children)
3. father or mother (parents)
4. brother or sister (siblings)
5. grandparents
6. grandchildren
7. uncles or aunts
8. nephews or nieces
9. first cousins

\* The above list goes on (descends) further, but is sufficiently reproduced here for 'example' purposes

So, (and using this same, **generic example** [for demonstration purposes only]) after some reasonably basic checks that a telephone caller (and / or via face to face meetings, electronic and / or written correspondence etc. ([as circumstances 'on the day' so dictate]) to the accident airline seems to be a genuine FR of an associated accident victim (i.e. the caller fits into one of the above listed \*\* 'next of kin / closest relative' categories) - the airline might wish to favourably consider communicating / corresponding with (the providing and taking of associated information) and, where necessary and appropriate, supporting (typically via the provision of humanitarian and other assistance) such person - and so on etc.





What is written in the last para above should, in no way, prejudice consideration of providing similar information and support services to **other** 'verified' next of kin / closest relatives of the same victim. However, it is almost certain that the airline will not be able to support them all - so it (the airline) might need to be make some tough choices on this matter

**\*\*** It will be recalled that guidance on who might be next of kin / closest relative (for the purposes of notification, humanitarian assistance etc. following a major aircraft accident & similar) is typically based on an appropriate form of **inheritance** law / custom and culture / religious direction etc.

However, in its use to guide notifications etc. - it is typical for airlines to place a restriction to the effect that (where at all possible / practicable) notification to persons **over the age of 18** is preferred. This is obviously of particular relevance with regard to dealing with 'children' significantly under the age of 18 who might, nevertheless, be an associated next of kin / closes relative of an accident victim

To take the above generic example even further, if a particular caller 'type' is included in the page 7 list - but that caller is **not** the husband / wife / civil or de facto partner (spouse / partner) of the victim being enquired about (if there is one of course) - then the airline should make every effort when corresponding with the caller to try to ascertain the **existence**, name and contact details of such spouse / partner - **if not already known**. If successful, the airline should then attempt contact with that spouse / partner etc. without delay

Additionally, the airline should request that the original caller referred to (as per the para immediately above) **also / additionally** tries to make contact with the partner / spouse him / herself and, if successful, should pass on the information already provided (to that original caller) by the airline - **and then ask said spouse /partner to contact the airline directly without delay**

In similar circumstances **BUT** where no spouse / partner exists or cannot be found - the airline should work through the same process with the caller(s) - with the difference being that those on the page 7 list will **each** be considered in a descending, priority order (starting with children and, if no children, moving on to parents and so on) until a closest next of kin / closest relative is eventually established (if at all). Of course, if it can be established that the **original / first** caller **is** the next of kin / closest relative - then the required objective here will have already been achieved

Where other (apparently genuine) victim associated FR contact the airline (i.e. those **not** included on the page 7 list [remembering that the list shown is not complete]) it will probably be acceptable to provide some basic information (as / if available) to them (but almost always **NOT** including death notifications). It is suggested that this latter course of action has the proviso that at least two categories of next of kin / closest relatives from the top three categories listed on page 7 have **ALREADY** been notified e.g. a spouse and a parent

However, it is feasible that the FR referred to in the last para above is the **only** person to have enquired about the associated victim up to that point in time. In such circumstances the accident airline will need to manage the situation accordingly (How it intends to do so should e.g. have already been thought through and documented in the appropriate part of that airline's ERP)







**IMPORTANT** - As a general 'rule', information re **fatalities** should, unless exceptional circumstances prevail, typically be communicated to the **primary** next of kin / closest relative **before** anyone else (including other 'qualifying' FR)

However, it should also be clearly understood that this course of action will **not always be possible** 'on the day' - for what will probably be one or more valid reasons

The associated response (at least in principle) to such a situation should have already been accounted for (researched, documented, trained for, exercised for etc.) by the involved airline, as part of its ERP 'pre-planning' responsibilities

Where the above ('not always possible') type situation is or would appear to apply (considering actual circumstances 'on the day') - airlines / other appropriate parties should attempt to seek some form of official etc. 'authority / approval' before making such death notification(s) to such **other** FR - such authority / approval typically coming from one or other form of recognised national or regional or local (government and / or legislative and / or religious etc.) type entity

However, it **must** also be recognised that in further (relatively rare) circumstances, notification of **\*** death may need to be made in a timely manner without such 'official' authority / approval (e.g. when it is already apparent in the **public domain** that death has occurred e.g. where it is absolutely certain that there were no accident survivors etc.)

In such circumstances it may (repeat - '**may**') be necessary for the **\*** accident airline to formally make a 'no survivor' proclamation in general - **before** any / all appropriate next of kin / closest relatives (whichever category they might come under) are able to be personally notified of same

**\*** Note 1 - when referring to '**deaths**' in this information article, we are referring to 'de facto death' (extinction of life) - **not** 'legal' death. The two have important differences. Note 2 - This was the actual situation which eventuated, concerning the disappearance of Malaysian Airline flight 'MH 370' on 8 March 2014

### WARNING

What has been written above demonstrates the need for the utmost care & caution when planning for how an airline (and similar) communicates with and supports surviving accident victims - together with the FR of **all** accident victims, including FR of the dead. It will be far too late to do this 'ad hoc' **after** accident occurrence - i.e. it must all be researched, worked out, documented, trained (& retrained) and exercised (& re-exercised) beforehand

The problem here is that there are generally no 'absolutely definitive' answers 'out there' as to how all of this might best be accomplished - considering the diversity (and even lack) of the associated information required to make the appropriate decisions

This problem is unlikely to go away anytime soon - meaning that airlines, airports, GHAs and similar might need to make some assumptions and decisions (preferably with expert advice) which, at best, might be described as 'tenuous'. So be it - there is currently no other 'acceptable' option

Reminder - to complicate things further (and as already mentioned), many countries / states / jurisdictions etc. have additional laws and similar which potentially makes all of what has been written above even more chaotic. Such laws and similar typically relate to '**personal privacy / data protection**', '**human rights**' etc.





## Workarounds!

There are some methods of overcoming certain aspects of the above described 'next of kin / closest relative etc.' dilemma. Some already exist and some need to be 'invented'. For example:

See - <http://www.gpo.gov/fdsys/pkg/CFR-2014-title14-vol4/xml/CFR-2014-title14-vol4-part243.xml>

In summary, the above **USA legislation** requires most airlines operating to / from / within the USA to 'solicit' (ask for) and retain (for a defined period) emergency contact details for every **US citizen** on every such flight. This procedure is compulsory for the airline (if it wishes to operate to / from / within the USA). It is **not** compulsory for the US citizen concerned to provide the information (as the term 'solicit' does not make this requirement compulsory)

However, under this same legislation, US citizens are also required to provide their full names. If they refuse, the airline concerned should not permit them to board the flight. However, this initiative could and should go further (in the opinion of the author of this info article) - in that it should also be compulsory for US citizens to provide associated emergency contact information

See - <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0035:0050:EN:PDF>

With regard to emergency contacts provision, this is a similar (but watered down) version of what has been described above for the USA - but applicable (legislated / regulated) to **European Union airlines / air carriers**. (Also applicable to third country air carriers **departing** any EU State / Country - with regard to provision of passenger manifest list and dangerous goods information)

Note that the **voluntary** provision of emergency contact information applies to **all** nationalities i.e. not just to EU citizens

Again, this initiative could and should go further (in the opinion of the author of this info article) - in that it should also be compulsory for EU citizens to provide their emergency contact information





### **Airline Tickets (of all types) - Conditions of Carriage / Terms & Conditions**

If an airline so chooses (and appropriate legislation / regulation & similar permits), it may wish to consider inserting appropriate 'emergency contact' clauses into its standard conditions of carriage / terms & conditions etc.

Such clauses could include e.g. the requirement for the associated passenger to provide emergency contact information for potential airline use - at some point prior to boarding the aircraft

Another appropriate clause might be inserted covering the problem of 'who is the most appropriate FR to contact with regard to accident notification?' The objective here would be to give the accident airline some discretion in this matter

The intent of all such clauses should be to clearly benefit the passenger (victim) and associated (non-travelling / not on the accident flight) FR - at time of crisis - and with regard to the provision of information and humanitarian assistance etc.

A further advantage to using such clauses (if in use and appropriately worded) is that inflexible and undesired impacts (from the humanitarian etc. type assistance viewpoints) of e.g. personal privacy / data protection etc. legislation / regulation - might be able to be better managed (or even avoided) by the airline during a major emergency response operation

### **Emergency Contact Cards**

Passengers could be encouraged to complete and carry (on their person) emergency contact cards (e.g. the airline could provide downloadable soft copies for passengers to print and complete at some convenient time pre-flight [e.g. during an on-line ticket booking operation])

Provided that the card survives the accident and can still be associated in some way with the person it 'belongs / belonged to' - the information it contains could be of significant benefit to all concerned

Even better, why not have emergency contact information on one side of the card - and medical related information (e.g. diabetic) on the other side

And even better still, all persons should generally carry emergency contact cards on their person at all times when away from home (not just when flying)





## Examples

You will find (on the following pages) **limited** (in number and scope) **examples of the inheritance 'laws' of some countries** (and regional areas within countries - such as 'states' [USA & Australia] and 'provinces' [Canada]) - with a view to how same might be informally interpreted as a guide to how to select 'who is' the appropriate next of kin / closest relative, with regard to the (airline, airport, GHA etc.) priorities of notification and support - following a major air accident

An example (UK) is also provided as to what might be 'best practice' regarding the non-legal term and important concept (from a major air accident response viewpoint) of the term '**emergency contact**'

Lastly, some examples are provided of how one major world religion ('Islam' in this case) might apply the concept of **inheritance** - and thus might serve as a guide (related to e.g. passengers of that religion [& their appropriate FR also]) to the priorities of notification and support following a major aircraft accident:





### Next of Kin (UK Citizens) - as used in the context of the term '*emergency contact*'



Whether or not you would be recognised as your *partner's* 'next of kin' in the event of an emergency is something that worries many *co-habiting* (i.e. not married) couples. For example, would you be informed if your partner was in an accident? Would you be given information about your partner's condition? Would you even be allowed to see him / her in hospital? Might your 'real' family etc. even argue about who was *your* next of kin (i.e. their opinion might be that your co-habiting partner is *not* your next of kin)?

Despite widespread use of the phrase 'next of kin' - *it is not formally defined by (UK) law*. This means that your next of kin (as a UK citizen) could be anyone - as nominated by yourself

UK hospitals have generally recognised spouses and close blood relatives as next of kin and have sometimes excluded co-habiting partners. This has been more common with same-sex partners, but has also happened to male-female couples. As families have become more diverse, the policy in most hospitals is to now ask you to nominate your next of kin formally, on your admission to hospital (if possible of course)

Make sure you always choose the same person as your nominated next of kin (if possible). If you are unable to say, because for example you are unconscious, they (hospitals etc.) will try to work out who is the person closest to you. They may get this wrong, particularly if your personal circumstances are confusing or "unusual" e.g. if you consider your best friend to be your next of kin, rather than say your wife or your father

Consequently, it might be a good idea to make up and carry a simple '*next of kin card*' to make it absolutely clear to medical staff etc. who you have chosen to be your next of kin and how to contact them. Size it (the card) so that it can fit in your wallet, purse etc. - and can be carried with you everywhere (see front page of *this* info article for an example illustration of what such a card might look like)

#### *What you need to think about before you complete the next of kin card:*

- There are no rules about who can and cannot be your next of kin. You can nominate your partner, a member of your family, a good friend etc. For some people, choosing their next of kin may be obvious. Others may need to consider the matter more carefully
- Before completing the form, discuss your decision with the person you have chosen. Make sure he / she is willing to be your next of kin for medical and perhaps other, appropriate purposes - and that they also clearly understand what is involved for themselves





### **What does it mean to carry a 'Next of Kin' card?**

- By completing and carrying a 'next of kin' card, you are making it clear that you wish the named person to be treated as your next of kin e.g. if you are admitted to hospital. This means that he / she would be informed that you are in hospital and hospital staff would look to him / her for guidance about your care if you were unable to communicate (e.g. if you were unconscious). If you were to die, your next of kin would be consulted about issues such as making funeral arrangements, a hospital post-mortem, organ donation etc.
- Your next of kin cannot consent or refuse consent to treatment on your behalf (no one can do that). However, they can let doctors etc. know what decisions they believe you would have made, if you had been able to
- A next of kin has no legal liabilities or entitlements e.g. they have no rights to your medical notes, personal possessions etc.
- **Nominating a next of kin does not affect who will inherit from you if you die** - whether you leave a will or not e.g. if you wish your next of kin to inherit anything from you after your death, this wish must be specifically included in your will
- In cases of a natural death in a hospital a post mortem may be requested. Consent for same must be given by the next of kin
- With any death occurring in England and Wales, an associated registration must be made in the 'Register of Births Marriages and Deaths' - to be registered within 5 days of the death, in the 'registry area' where the death occurred. An associated medical certificate must be obtained by the next of kin and, thus, it is usually the next of kin who registers the death

### **What else should I do?**

- You should let your family, relatives & friends know who you have chosen as your next of kin and where you keep your 'next of kin card'
- Discuss with your next of kin how you would like to be treated in the event of serious illness / death (for example, if you wish to donate your organs [but better still for the latter - also carry an organ donor card with you if you wish to so donate])
- If your mobile telephone device (mobile phone; smart phone etc.) already has an '\* ICE' entry in its address book, ensure that the associated contact details are for your nominated next of kin

\* 'ICE' = 'in case of emergency'

Note 1 - some devolved regions of the UK (e.g. Scotland) **may** have their own 'interpretations' of the above

Note 2 - UK law (in England & Wales at least) uses the *legal* term '**statutory** next of kin'. This term applies to the administration of wills only - and usually covers the situation (who will inherit what) where a person dies intestate (i.e. without leaving a will)







## Wills, Estates & Trusts

### The Laws of Intestacy (England & Wales)

If someone dies and has not left a Will they are said to have died intestate

In such circumstances the 'estate' of the deceased must be distributed according to the laws of intestacy - which set out a statutory set of rules which leave a person's estate to the \* beneficiaries, in a fixed order

\* Note - as already mentioned, the legal term '**statutory** next of kin' is also used in UK - having the same meaning in such circumstances as 'beneficiaries' (i.e. beneficiaries of the intestate will)

The table starting on the next page sets out the way an estate (of someone who has died intestate) should be distributed (information became effective on 01 October 2014 - and may thus be out of date at time of reading)





Intestacy-Rules-flowchart-if-you-live-in-england-1 (2).pdf - Adobe Acrobat Reader DC

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## What happens if you live in England and Wales and die without making a will?

Are you married or in a registered civil partnership?  
(This includes married couples and couples in a registered civil partnership who are separated)

```
graph TD; Q1[Are you married or in a registered civil partnership?  
(This includes married couples and couples in a registered civil partnership who are separated)] -- Yes --> A1[Everything passes to surviving spouse]; Q1 -- No --> Q2[Is your estate worth more than the Statutory Legacy  
(currently £250,000)?]; Q2 -- Yes --> Q3[Do you have any children,  
grandchildren or other direct descendants  
(e.g. great-grandchildren)]; Q2 -- No --> A2[Everything passes to surviving spouse]; Q3 -- Yes --> A2; Q3 -- No --> A2;
```

Is your estate worth more than the Statutory Legacy (currently £250,000)?

No

Everything passes to surviving spouse

Yes

Do you have any children, grandchildren or other direct descendants (e.g. great-grandchildren)

Yes

Spouse receives:

- All Personal Chattels
- A Statutory Legacy (currently £250,000)
- One half of the residuary estate absolutely

Children receive:

- The remaining one half of the residuary estate absolutely or on statutory trusts
- If a son or daughter has already died, their children will inherit in their parent's place

Interest accrues on the Statutory Legacy from the date of death (calculated on a simple basis as opposed to a compound basis)

The interest rate is the Bank of England base rate that had effect at the end of the day on which the intestate died

No

Everything passes to surviving spouse





Intestacy-Rules-flowchart-if-you-live-in-england-1 (2).pdf - Adobe Acrobat Reader DC

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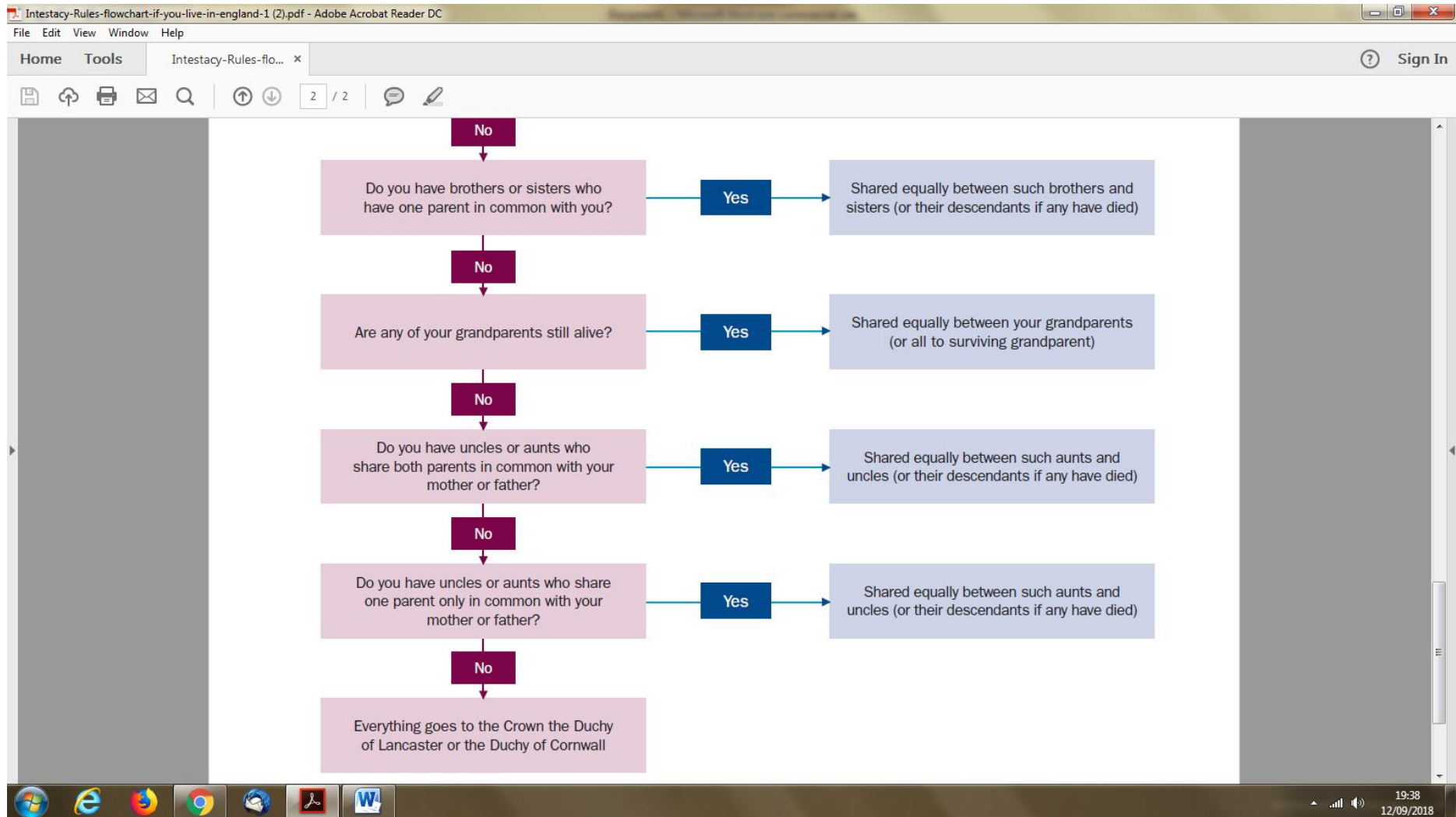
What happens if you live in England and Wales and die without making a will?

Are you unmarried or not in a registered civil partnership?  
(This includes single, widowed and divorced persons)

```
graph TD; Q1[Do you have children, grandchildren or other direct descendants (e.g. great-grandchildren) (excluding stepchildren)] -- Yes --> A1[Shared equally between your children (or their descendants if any have died)]; Q1 -- No --> Q2[Are either of your parents still alive?]; Q2 -- Yes --> A2[Shared equally between your parents or all to surviving parent]; Q2 -- No --> Q3[Do you have brothers or sisters who have both parents in common with you?]; Q3 -- Yes --> A3[Shared equally between such brothers and sisters (or their descendants if any have died)]; Q3 -- No --> Q4[Do you have brothers or sisters who have one parent in common with you?]; Q4 -- Yes --> A4[Shared equally between such brothers and sisters (or their descendants if any have died)];
```

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Explanation of terms used above:

- A civil partner is someone who has entered into a registered civil partnership with another person (under the 'Civil Partnership Act' 2004). It does not include people simply living together as unmarried partners or as 'common law husband and wife'
- A spouse is assumed to have survived the deceased by 28 days
- The term 'children' includes those legally adopted and those who are illegitimate
- Children receive their inheritance at age 18 - or on earlier marriage
- The term 'children' does not include stepchildren





## United States / Next of Kin

U.S. Department of State Foreign Affairs Manual Volume 7 - Consular Affairs

### 7 FAM 200 - Appendix D - **IDENTIFYING NEXT OF KIN OR LEGAL REPRESENTATIVE**

INTRODUCTION (CT: CON-484; 09-13-2013)

- a. The term next of kin (NOK), frequently used in consular work to reflect the family member to be notified in the event of the death of a U.S. citizen abroad, is more commonly understood to refer to U.S. **state** laws regarding descent and distribution for intestate succession - when a person dies **without** leaving a valid will. By most legislated definitions, a **spouse is not a NOK** in the sense that they have no genetic degree of kinship. The Department therefore generally uses the terms surviving spouse, next of kin or legal representative when instructing consular officers who to notify in the event of the death of a U.S. citizen abroad. However, consular offices should remain cognizant that **common usage often treats the surviving spouse as the NOK**
- b. If a person dies leaving a will, advanced directive or similar instrument, he or she may have made specific provisions recognized under the laws of the state of residence regarding disposition of remains and the estate
- c. The individual may also have designated a legal representative to make arrangements for disposition of remains and the estate in the event of his or her death
- d. Many deaths of U.S. citizens abroad occur unexpectedly, and unless the person resided in the foreign country, there may be little or no documentation to assist the consular officer in determining who is the legal next of kin (surviving spouse, legal representative)
- e. If local law recognizes a person as NOK (e.g. a distant, local relative) who would not be recognized as such under U.S. law (where there exists a surviving spouse or closer relative in degree of kinship), consular officers should consult Consular Affairs for guidance on whether it is appropriate to make representations to the host government or how the family may pursue the matter through local legal channels
- f. Assuming there is no NOK, surviving spouse or legal representative present in the foreign country, we generally look first to the person's passport application(s) to see if the deceased **designated a person to be contacted in the event of an emergency**. More recent passport applications can be viewed by posts abroad using the PIERS system (Passport Issuance Electronic Records System). For older passports, CA/OCS/ACS can request retrieval of the record
- g. Of course, passports are valid for ten years for adults, so it is possible that even if the decedent did list a person to be notified in the event of an emergency, the contact information may no longer be valid
- h. If the deceased registered in the Smart Traveller Enrolment Program (STEP), the registration may contain information useful to finding the NOK as might papers found on the deceased







- i. The Internet provides a variety of resources to assist in locating next of kin. CA/OCS/ACS has access to specific Lexis/Nexis and other web based tools to help in this regard. Telephone directory assistance may also be helpful
- j. Questions regarding identification of NOK, surviving spouses, legal representatives and related matters should be directed to .....

#### 7 FAM 220 APPENDIX D DEGREES OF KINSHIP - UNIFORM PROBATE CODE (CT: CON-156; 02-07-2007)

Article II of the Uniform Probate Code pertains to intestate succession and wills. *Any part of a decedent's estate not effectively disposed of by will passes, by intestate succession, to the decedent's heirs as prescribed in state law*, except as modified by the decedent's will. The Uniform Probate Code has been adopted, at least in part, by 18 states. (See state laws regarding descent and distribution.)

#### 7 FAM 230 APPENDIX D DISPUTING FAMILIES - (CT: CON-156; 02-07-2007)

- a. One of the sensitive aspects of death and estate consular work is trying to assist families whose members have opposing views as to what should be done regarding disposition of remains and personal effects. This subject is discussed at length in 7 FAM 290 concerning estates, which is a much more clear cut subject
- b. Disposition of remains is not generally addressed in state or foreign law. As a matter of customary law or custom, the surviving spouse, closest relative or legal representative makes the determination, in the absence of a specific provision in the decedent's will or other legal instrument
- c. *Degrees of Kinship: The degree of kinship is established by the number of generations, and each generation is called a degree. The general descent and distribution provisions for a person who dies without a will are (in descending order):*
  - 1) Spouse
  - 2) Children
  - 3) Parents
  - 4) Siblings
  - 5) Grandparents
  - 6) Aunts, Uncles and
  - 7) Cousins
- d. There are several scenarios in which the consular officer may find him / herself coming in between family factions:
  - 1) If a person dies intestate, is divorced and is survived by children who are minors, the children's surviving parent could exercise the children's rights regarding decision making on disposition of the decedent's remains and estate
  - 2) If a person dies unmarried, intestate and is survived by adult children who do not agree about disposition of the remains and estate
  - 3) If a person dies unmarried, intestate and is survived by parents who do not agree about disposition of the remains and estate; or
  - 4) If a person dies unmarried, intestate and is survived by siblings who do not agree about disposition of the remains and estate





## 7 FAM 240 APPENDIX D - SIMULTANEOUS DEATH ACT - (CT: CON-156; 02-07-2007)

Article II of the Uniform Probate Code provides that *an individual who fails to survive the decedent by 120 hours is considered to have predeceased the decedent* for purposes of homestead allowance, exempt property, *and intestate succession*, and *the decedent's heirs are determined accordingly*. This is also the standard set forth in the Uniform Simultaneous Death Act. (See the National Conference of Commissioners on Uniform State Laws UCCUSL web page)

## 7 FAM 250 APPENDIX D CIVIL UNIONS, REGISTERED PARTNERS, RECIPROCAL PARTNERS, DOMESTIC PARTNERS

- a) A heterosexual or same-sex partner of the deceased *who was in a civil union or similar arrangement recognized by a U.S. jurisdiction* will be *treated the same as a "spouse"* for purposes of disposition of the estate under this FAM section
- b) The information included below is up to date as of the date of this FAM publication, recognizing that this is an emerging and changing area of law. Same-sex couples living in California, Nevada, Oregon, Washington and the District of Columbia can take advantage of broad domestic partner laws that, like civil unions, offer access to the state-level rights and responsibilities of marriage. In addition, Colorado (*designated beneficiaries*), Hawaii (*reciprocal beneficiaries*), Maine (*domestic partnerships*), Maryland (*domestic partnerships*), and Wisconsin (*domestic partnerships*) offer limited state-wide spousal rights to same-sex couples within the state. Laws in Alaska and Arizona do not create rights, but expressly include domestic partners in laws specifying the relatives and friends who may make decisions on an incompetent or dead person's behalf
- c) Vermont's Act 91 is a law that permits same-sex couples to enter into civil unions, entitling them to the same state law benefits as married couples. It also contains provisions that permit two unmarried relatives to declare themselves "reciprocal beneficiaries," giving them the equivalent of a spouse's rights to hospital and nursing home visitation, access to medical information, and to make some personal decisions on each other's behalf
- d) In an October 25, 2006 ruling, the New Jersey state supreme court gave lawmakers 180 days to rewrite marriage laws to either include same-sex couples or create a new system of civil unions for them. The New Jersey legislature enacted a civil union law
- e) In May 2007, Oregon enacted a domestic partnership law that extends all state level spousal rights to same-sex couples. The law went into effect January 1, 2008
- f) On May 18, 2009, the Governor of Washington State signed into law a measure extending all state-level spousal rights to same-sex couples. Voters upheld the law in November 2009
- g) In 2009, Nevada's state legislature overrode the Governor's veto to pass the Domestic Partnership Act. The law, which went into effect October 1, 2009, gives domestic partners all of the same rights as married couples
- h) In New York, same-sex marriages from other states and foreign countries are recognized but they are not performed. State law gives precedence to surviving domestic partners for right to control disposition of remains over all others except persons designated by 1) a written instrument in accordance with the statute and 2) surviving spouses, in that order





- i) On March 3, 2010 the District of Columbia began issuing marriage licenses to same sex couples
- j) In New Hampshire, Connecticut, Iowa, Massachusetts, Vermont and the District of Columbia, marriages for same-sex couples are legal and currently performed. In California, same-sex marriages were performed between June 16, 2008 and November 4, 2008, after the California Supreme Court held the statutes limiting marriage to opposite-sex couples violated the state constitution; however, the California electorate then approved a voter initiative that reinstated the ban on same-sex marriage as part of the constitution. Marriages performed during this period, or in other jurisdictions before or during this period, are still recognized
- k) Same sex or unmarried heterosexual partners who have not entered into a civil union or similar arrangement recognized by a U.S. jurisdiction may still exercise rights over the deceased and the estate if he or she has been designated as a legal representative of the deceased, such as through a will, living will, or other advance directive, consistent with 7 FAM 260 Appendix D below
- l) Foreign governments may question U.S. state law on this subject, particularly regarding advance directives and living wills which are not commonly accepted in many countries. Such questions should be forwarded to CA/OCS/L ([ASKOCS-L@state.gov](mailto:ASKOCS-L@state.gov).)
- m) Consular Officers should generally follow state laws regarding rights and responsibilities for the disposition of remains based upon the residency of the decedent, including those referenced above. Questions about this subject should be addressed to CA/OCS/L ([ASK-OCS-L@state.gov](mailto:ASK-OCS-L@state.gov)), including what documentation is required to establish domestic partnership, whether the law has changed in the states referenced above and whether additional states have enacted similar legislation

#### 7 FAM 260 APPENDIX D LEGAL REPRESENTATIVE - CT: CON-156; 02-07-2007)

If a person dies abroad leaving a will, living will, or advance directive, those instruments may designate the decedent's legal representative, executor or trustee responsible for carrying out last wishes as expressed in those instruments





### Canada / Province of Ontario / Next of Kin

In a situation where a person dies without a will, the Succession Law Reform Act acts as a code for the distribution of the inheritance. Accordingly, the first person to be considered next of kin is the legally married spouse of the deceased. If the only next of kin is the spouse then the spouse inherits everything. If there are other next of kin, the spouse is entitled to the “preferential share”, which is the first \$200,000 of the value of the estate

If the value to be inherited is less than the preferential share (\$200,000), the spouse of the deceased inherits everything, even if there are other next of kin. The division of what remains above the preferential share takes place as follows

- If there is one child, the child and the spouse divide equally the remainder of the inheritance
- Where there is more than one child, the spouse gets one third of the remainder of the inheritance, over & above the preferential share, the children dividing the rest between them
- In the event of a partial intestacy, if the spouse inherits something, this will be taken into account for the calculation of the preferential share
- If there is no spouse and there are no children, then the inheritance goes to the parents of the deceased, in equal shares
- If there is no spouse, and there are no children or parents, then the inheritance goes to the deceased's siblings, or if they have died, the inheritance goes to the children of the siblings
- If there is no immediate family, the inheritance passes on to nieces and nephews in equal share per capita. After that the inheritance passes on to the next level of next-of-kin in equal shares **according to the table of consanguinity (relationships by blood)**
- Finally, if there is no one who stands to inherit from a deceased who does not have a will, the inheritance goes to the Crown (Government)

***It is clear then, that under Ontario legislation - testate successions can be organized in any way, to the exclusion of anyone, provided that adequate provision is made for the married spouse and dependants. Therefore, if a will is drawn up e.g. according to the dictates of Islamic personal law, and it is a valid will under Ontario law, there is no reason to ignore it under Ontario law***

Intestate successions are distributed according to the statutory provisions, provided the matter is brought to the court's attention. The law on intestacy establishes a regime of entitlements, but it does not prevent beneficiaries from making other, private arrangements. If beneficiaries want to arbitrate about intestacy - they have a right to do so. In order for the courts to become involved, someone must bring a complaint, as is the case for any civil action





## Australia / State of **South Australia** /Next of Kin

There is no formal legal recognition or legal rights of '**next of kin**' in South Australia. However, Certain Acts have given a restricted definition such as the 'Transplantation and Anatomy Act 1983 (SA) [s 5]', which gives a priority as to who makes decisions concerning the donation of organs and tissue, see organ donation

Section 9 of the Burial and Cremation Act 2013 (SA) allows a parent or child of a deceased person to object to cremation, except where the deceased directed he or she be cremated by will or other signed and witnessed document (but a spouse or partner, unless they are also the personal representative / executor of the estate of the deceased person, cannot object)

'Next of kin' are not legally required to provide personal particulars of the deceased relative, but it is helpful if they provide as much detailed information as the funeral director requires. A funeral director can leave the personal particulars with the Registrar of Births, Deaths and Marriages for the purposes of registering the death [Births, Deaths and Marriages Act 1996 (SA) s 38(1)].

Where the deceased has left a will which appoints an executor, it is the executor's responsibility to dispose of the body according to directions in the will. See 'duties of executors'



## State of **Tasmania**

Intestacy - National Committee for Uniform Succession Laws

*When an intestate is not survived by a spouse or partner*, each jurisdiction makes provision for the distribution of the intestate estate to the **next of kin**, i.e. the nearest relatives of the deceased and, in some degree, their issue (i.e. their children etc.). Each jurisdiction has adopted the following broad order of those relatives of the intestate who are entitled to take:

- children and their descendants; then
- parents; then
- brothers and sisters; then
- grandparents; and then
- aunts and uncles

While the above applies as a general scheme, each jurisdiction makes different provision with respect to each of the categories. So, for example, there is some difference among the jurisdictions about the extent, if any, to which descendants of siblings or aunts and uncles should be entitled to take. Also there is some debate as to whether recognition should be given to both maternal and paternal sides of an intestate's family where grandparents and aunts and uncles are entitled to take





Please follow the links below:

<http://www.islam101.com/sociology/inheritance.htm>

<http://www.islamicity.com/dialogue/Q277.HTM>

<http://mradziahmad.wordpress.com/2013/10/06/the-rights-of-the-kin-in-islam/>

<http://www.iranicaonline.org/articles/family-law#ii>

<http://www.islamweb.net/en/article/158247/justice-and-merits-of-islam-in-the-distribution-of-inheritance>

[http://en.wikipedia.org/wiki/Islamic\\_inheritance\\_jurisprudence](http://en.wikipedia.org/wiki/Islamic_inheritance_jurisprudence)

New Straits Times (Malaysian Newspaper)  
EPF launches campaign to name inheritors  
24 Sep 2102

**KUALA LUMPUR:** The Employees Provident Fund (EPF) is launching another campaign to boost awareness among contributors to name their next-of-kin (inheritors) for their savings from today until Oct 19

The campaign involved using newspapers and radio, promotions at service counters and EPF's Calls Management Centre, official Facebook and Twitter) sites, said EPF's Public Relations General Manager .....

"The message of the campaign this time reminds members on the importance of naming their next-of-kin as a reflection of love for their families and the difficulties of dependents when death takes place"

As such, it is very important for members who have yet to name their next-of-kin to do so quickly," he said in a statement, here, today. He said members could nominate anyone but were advised to name their closest relatives such as their spouses and children

**For Muslim members, the next-of-kin only acts as administrator - being responsible for distributing the savings under Faraid law (Islamic Law of Inheritance)**







[www.aviationemergencyresponseplan.com](http://www.aviationemergencyresponseplan.com) (Parent Website)

**Consanguinity** (Blood Relation / Same Kinship)

<http://en.wikipedia.org/wiki/Consanguinity>

