

Changes to Jersey's Probate Law

Insights - 02/11/2023

Updates to the Probate (Jersey) Law 1998 have simplified the management of movable estate in Jersey. Banks and other financial institutions should familiarise themselves with the new requirements.

Under the Probate (Jersey) Law 1998 (the **Probate Law**), a grant of probate or administration is obtained in order to manage a deceased person's movable estate (personal property that cannot be moved, such as cash, jewellery and clothes) where the total value of the movable estate exceeds the amount prescribed within that law. Prior to the updates, this value was set at £10,000.

The amendments, which are effective from 27 October 2023, provide that personal property may be released without a grant in the following limited circumstances:

- if the deceased was Jersey domiciled and the gross value of their worldwide estate does not exceed £30,000 or if the deceased was not Jersey domiciled and the gross value of their movable estate held by each "holder" does not exceed £30,000
- particular holders of property may release movable property using an application form if the relevant property is worth less than £30,000 and the deceased's worldwide movable estate does not exceed £30,000. The Probate (Forms and Particular Holders) (Jersey) Order 2023 (the **Order**) designates the relevant holders as certain care home providers and managers, certain managers of social housing facilities, the Viscount, the Chief Nurse of the Health and Social Services Department and the Prison Governor. Such holders are able to release property without a grant if the deceased's date of death was within the preceding ten years of the Order
- in respect of items worn by the deceased to enable:
 - a funeral director to authorise burial or cremation with personal property valued up to £1,000; and
 - upon receipt of an application form, that a deceased may be buried or cremated with personal items valued up to £10,000

- if the Viscount is acting as a court appointed delegate and the worldwide estate does not exceed £30,000
- for movable property which is ownerless and passes to the Crown (bona vacantia)

The Probate Law already contained certain safeguards which continue to apply. An applicant for the deceased's movable property must confirm:

- that the current movable property holder would not be liable to another potential beneficiary for the movable property should it be released to the applicant
- that the applicant is entitled to receive the movable estate under the terms of deceased person's will or under the laws of intestate succession (being the place in which the deceased person was domiciled at death); and
- that there is no caveat preventing a grant from being made

There is a new criminal offence of knowingly providing false information when applying for the release of personal property.

The amendments provide a welcomed sense of flexibility for beneficiaries of small value estates.

Importantly, it will remain a criminal offence to take possession of or administer movable property prior to a grant unless a relevant exemption applies. It is therefore essential for banks and other financial institutions to review any relevant policies or procedures relating to the release of personal property to ensure they continue to operate in accordance with the updated Probate Law.

If you have any questions about the new requirements, please contact one of our team who will be happy to assist.

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