

Is Jersey part of the UK for probate purposes?

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The recent judgement of *Partington v Rossiter*, which was handed down in October 2021, may cause a level of confusion as, on the face of it, a will in which Mr Rossiter (who was domiciled in Russia and left assets in Jersey) defined his 'estate' as his property, money and investments in 'the UK' was found to also cover his assets which were situated in Jersey. Trust and estate practitioners in Jersey and in the UK are well versed at advising clients the opposite however – that Jersey *does not* form part of the UK.

This type of issue with wills is not an uncommon scenario. I have dealt with a number of estates where the scope of a will is limited to 'assets within the United Kingdom only' but where the deceased has left assets in Jersey, including three in the last year. Trying to get these wills admitted to probate in Jersey on the basis that the term 'United Kingdom' included Jersey would have been met with rejection by the Registrar and an insistence for either (1) the estate in Jersey to be administered on the basis of a partial intestacy with reference to the law of domicile of the testator, or (2) an application be made for the will to be rectified.

It must be noted however that the Rossiter matter had very specific facts, primarily that Mr Rossiter had left a specific legacy of his Jersey situs assets to named beneficiaries (his children) and that, despite receiving advice to draw up wills covering his assets in other jurisdictions, Mr Rossiter did not put a separate Jersey will in place. There was also a note from Mr Rossiter to his UK lawyer a couple of months before he died stating that his estate in the UK (Incl Jersey) should be divided between his children.

Direct evidence of the testator's intention was determined to be admissible in this matter and it was the intention of Mr Rossiter that the Court considered to be beyond doubt – Mr Rossiter clearly *intended* the will in question to cover his Jersey assets by virtue of the fact that he had specifically mentioned the Jersey asset in the will as a specific bequest.

The Court determined that as the will did cover the Jersey situs assets, there was no requirement for it to be rectified.

It is interesting, and slightly odd, that this matter was first heard by the English Court rather than

the Royal Court of Jersey which, under the Probate (Jersey) Law 1998, would have had jurisdiction to hear this matter in the first instance and has considerable experience in doing so. Instead, it is likely that the parties will need to apply to the Royal Court of Jersey for the English judgement to be ratified here before a Jersey probate to the will can be issued.

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