VOISIN LAW

Guide to Wills & Probate for individuals domiciled outside Jersey | 1

The purpose of this guide is to set out a summary of the principal rules in Jersey relating to non-Jersey domiciled persons who die owning movable assets in Jersey.

WILLS

If you hold assets in Jersey then we recommend that you put in place a separate Jersey Will to deal solely with those assets on your death. Such assets most frequently comprise shares in Jersey companies, units in Jersey-based collective investment funds, policies payable in Jersey and deposits with banks in the Island.

Advantages of a Jersey Will

- A Jersey Will allows your beneficiaries to access the Jersey assets swiftly.
- This is beneficial where assets in other jurisdictions may be tied up in probate.
- The Jersey assets can be utilised to settle tax liabilities in other jurisdictions.
- The process is even more swift where a Jersey resident executor is appointed. Note that with a Jersey resident executor such as Voisin Executors Limited, probate may be obtained within two weeks of your death.

How do I make a Will in Jersey?

The process is simple and we can assist you with this. The first step is to complete our Will Instruction Sheet and return it to us. We can then discuss your requirements in more detail.

Validity of a Will

You can put in place a Jersey Will leaving your assets to whom you choose but in circumstances where that Jersey Will is challenged in the Jersey courts on the grounds that it is not in accordance with the succession law of your jurisdiction of domicile (e.g. where there are rules of forced heirship) then the Jersey court will apply the law of the jurisdiction of your domicile and not Jersey law. Therefore we are unable to advise on this 'essential' validity of your Will.

Mistaken Revocation

Once a Jersey Will is signed it will govern the devolution of your Jersey assets. Therefore, should you make another Will in future governing your assets outside of Jersey you must ensure that the new Will does not mistakenly revoke your Jersey Will (e.g. by stating that it 'revokes all former Wills and testamentary dispositions'.) You should always advise your lawyer that you have a Jersey Will in place.

Existing Worldwide Will

You may have an existing 'worldwide' Will in place that covers your Jersey assets. This would need to be reviewed to ensure that it does cover the Jersey assets. Particular care should be taken that it does not refer to 'my assets in the UK' as Jersey does not form a part of the UK. That worldwide Will can be probated in Jersey; however, this is only after probate has issued in the jurisdiction of domicile and therefore this may take some time thus delaying the ability of the beneficiaries to access the assets in

Jersey (see below).

PROBATE

A Jersey Grant of Probate (where there is a Will) or a Jersey Grant of Letters of Administration (where there is no Will) is required in order to release assets of a non-Jersey domiciled deceased person held in Jersey where the total value held by any holder exceeds £30,000.

'Fast Track' Probate Applications

If you are domiciled in England and Wales, Scotland, Northern Ireland, Guernsey or the Isle of Man there is a 'fast track' procedure for obtaining a Greffier's Certificate equivalent to a Jersey Grant to deal with your Jersey assets where probate has been obtained in the jurisdiction of domicile. However, ability to deal with Jersey assets may still be achieved more quickly if a separate Jersey Will has been made.

Probate of a Worldwide Will

If you die domiciled outside of the British Isles and have executed a worldwide Will then that original Will must first be proved in your country of domicile before probate can be obtained in Jersey. This is the same where there is no Will: the intestacy process must be completed in the country of domicile. This is where substantial delay can arise resulting in the Jersey assets being frozen hence the advantages of having a separate Jersey Will.

Postal applications for Grants of Probate are not permitted in Jersey. If your executor is not resident in Jersey it is possible for them to appoint an attorney in Jersey to apply for the necessary Grant of Probate and then to administer the estate in Jersey. Alternatively, we have an executor company, Voisin Executors Limited, which can be appointed to act as executor of the Jersey Will.

When applying for a Jersey Grant of Probate of a 'worldwide Will' the following original documents will be required:

- A Court Sealed and Court Certified copy of the primary Grant of Probate/Letters of Executorship/Administration;
- A Court Sealed and Court Certified copy of the Will and any codicils;

For the avoidance of doubt a "Court Sealed and Court Certified copy" is, an office copy with (a) the official seal of the Probate Registry affixed, (b) which has been certified on the reverse of the document that it is a true copy of the original by the Probate Registrar and (c) signed with an original signature by the Registrar. The above documents will be permanently retained in the Royal Court records.

Or: a notarised copy of the Notarial Deed or Inheritance Certificate (as appropriate);

- An original or certified copy of the death certificate;
- A Power of Attorney from the Executors or heirs at law in favour of this firm's executor company, Voisin Executors Limited.
- Details of the Jersey situate asset(s) together with date of death valuation(s).

Any documents that are not in English will need to be translated and certificated by a professional translator.

Stamp Duty (Probate Court Fees)

Stamp duty is payable on the application for Jersey probate and is charged at the following rates:

Where the net value of the Jersey Estate:

- Does not exceed £10,000:no fee
- Does not exceed £100,000 £50 for each £10,000 or part thereof
- To exceed £100,000, but not to exceed £13,360,000 £500 in respect of the first £100,000 plus
- £75 for each additional, £10,000 or part thereof
- To exceed £13,360,000, £100,000

A further £80 stamp duty is payable on all applications by way of an administration charge.

If you wish to send us instructions for making your will, please complete The Will Instruction Sheet Domiciled Outside of Jersey.

Voisin's Estate Planning & Capacity Team provide expert guidance in all matters concerning capacity issues. If you would like to have an informal discussion about these matters, please contact Eliana Lennon and Angela Roscouet at probate@voisinlaw.com.

This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.