



The duties of an executor of a Will or administrator of movable estate situate in Jersey

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This guide is to assist those appointed as executor of an estate by a Will or who are principal heir of an intestate estate where the deceased was resident in Jersey.

It is only a very general guide and there may be issues concerning which advice specific to the estate should be sought. We hope that these can be identified with the help of this guide.

Grant of Probate/Letters of Administration

A Will of personal or movable estate does not take effect until the Royal Court of Jersey has issued a Grant of Probate which confirms the authority of an executor to administer the estate of the deceased. When applying for a Grant of Probate an executor takes an oath to administer the estate according to law and to well and faithfully discharge the office of executor.

Similarly no person is entitled to administer the estate of a person who dies without making a will of movable estate (intestacy) until the Royal Court of Jersey has issued a Grant of Letters of Administration to the entitled relative or other appropriate person who applies for the Grant.

The only actions that can be taken before the Grant has been taken out are making arrangements in relation to the funeral of the deceased and to secure any property including letting the insurers know if a property is presently vacant.

Should any other steps be taken to deal with the assets of the deceased this could be classed as intermeddling which is a criminal offence.

Taking out a Grant

There are two ways of proceeding to obtain a Grant of Probate or Letters of Administration:-

1. To make a personal application for a Grant without legal assistance. It is necessary to attend two appointments at the Probate Registry and the process is likely to take some months before a Grant is obtained. A fee is also charged to cover administrative costs.
2. To instruct this firm to assist you with the application for a Grant. We prepare the necessary documents and accompany you to the Probate Registry. Only one appointment is required and the Grant can be obtained more quickly. Legal fees will be payable in relation to the assistance given. In this case we can also provide ongoing advice to the executor as and when required.

The application will take place in the Probate Registrar's office before the Registrar or her Deputy. You will be asked to stand and swear the oath and then sign the document. If there is a Will then you will then be asked to sign the Will in the margin. This then concludes the application.

The Grant (and any copies requested) is usually available for collection a few days later.

Duties of an Executor/Administrator

Once a Grant has been obtained, you, as executor or administrator, will be in a position to gather in the assets of the estate, pay any liabilities and distribute the balance in accordance with the terms of the Will



or under the rules of Intestacy.

The precise details of the task will vary greatly from case to case but generally will include the following (as applicable):-

- Safeguarding the assets comprising the estate.
- Writing to banks or other financial institutions to cancel standing orders (if any) and direct debits and arrange the closure of accounts.
- Writing to the Co-Operative Society to close the share account and gather in the funds.
- Arranging the sale or disposal of any personal effects which you do not wish to retain.
- Paying outstanding bills and settling tax liabilities up to the date of death.
- Paying any legacies (money gifts) specified in the will and distributing any bequests (non-money items) (in your case there are none).
- Registration with the DVS of any changes of ownership of vehicles and notifying the insurers.
- Liaising with foreign jurisdictions to recover assets situate elsewhere.

Claims against the Estate

Various claims may be made against the estate during the period of a year and a day following the issuing of the Grant. A claim may be made by creditors in respect of an alleged debt or a challenge may be made to the entire validity of the Will or an application made to reduce the Will “ad legitimum modum” by an heir at law to claim their “legitime”. If any proceedings are issued against you as executor or administrator it is essential that you seek legal advice; the costs of such advice will be normally met from the estate.

For these reasons it is the practice not to make any distribution of the estate until the year and a day period has passed, otherwise you would be personally liable for any shortfall. We are happy to discuss these issues with you and provide advice on the particular circumstances of the estate.

There are also provisions in the law for actions against the executor or administrator should he or she not carry out the role properly.

You may wish to consider taking out insurance in relation to the executorship. This is a cost of the estate so you should not be out of pocket, but it would provide you with some comfort if the role is unfamiliar to you.

Taxation

Jersey Income Tax at a standard rate of 20% is payable on all income receivable by the estate from the date of death to the date of distribution dependant upon the country of residence of the beneficiaries under the Will or of the heirs on intestacy.

Apart from the stamp duty payable upon the taking out of the Grant which will depend upon the value of the net movable estate there are no inheritance taxes, capital taxes, death or estate duties payable in Jersey.



You should send a certified copy of the death certificate and Grant or attend at the Income Tax Department with the original Grant. They will take a photocopy and will then send you the required returns for completion and inform you of any tax liability due.

Distribution of the Estate

At the conclusion of the administration an executor or administrator should prepare a detailed statement showing the value of the assets collected, amounts paid from the estate (including legal fees incurred in their capacity as executor) and the balance remaining to be inherited in accordance with the terms of the Will or in accordance with the rules on intestacy

This does not however have to be filed with the Court.

Confidentiality

The Will of personal or movable estate will be lodged with the Jersey Probate Registry and a copy can be obtained by any person with a legitimate interest to do so upon payment of a fee. However, the Probate Registry will not release information relating to the value of an estate.

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.