

Jersey's quasi-forced heirship rules

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Jersey draws a distinction between movable and immovable property (broadly speaking real estate but not share transfer properties) and if a person has both, he or she should have a will for each.

At present, there is testamentary freedom in respect of immovable property but, if a person is domiciled in Jersey, there are quasi-forced heirship rules as to how someone may leave their movable estate known as *légitime*. These rules afford a surviving spouse and/or issue of a deceased person rights to certain proportions of the deceased's movable estate regardless of what any will of their movable property may provide.

If a will infringes *légitime*, the relevant family members can force the deceased's estate to be distributed in accordance with *légitime* proportions. If this happens and a deceased had a spouse and issue, one third of the deceased's movable estate would be freely disposable, one third would pass to the spouse and the remaining third to the deceased's issue equally between them (if more than one).

There is evidence that wealthy Individuals looking to move to Jersey have opted for competitor jurisdictions due to the potential impact of *légitime*. The consultation paper puts forward the abolition of these rules for the purposes of the Trusts Law and establishing trust structures, however, such abolition has implications beyond this.

By voting, using the link below, please let us know if you believe that *légitime* should be retained or whether Jersey, like the UK and Guernsey, should have complete testamentary freedom. Points to consider might be, on the one hand:

- Real estate is often the largest asset in an average estate, and yet there are no constraints on how it can be disposed of under a will.
- The rules force a parent to have regard to a child or indeed a spouse or civil partner with whom they have no relationship.
- The rules inhibit the use of trust structures of Jersey residents as it is not clear if assets placed in trust avoid the impact of the forced heirship rules,

and on the other:

- A spouse or child unfairly excluded from a parent's estate could still seek part of their estate.
- Similarly, where there are children of different marriages, a deceased cannot prefer completely one set over the other.

Do you think potential high net worth clients are deterred from coming to Jersey due to *légitime*?

Do you think the *légitime* rules generally should be retained?

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