COLLAS CRILL

Why a will is vital under Guernsey's inheritance laws

OCTOBER 2015

Under Guernsey's previous laws of inheritance, individuals were not able to leave their assets exactly as they wished, in certain circumstances, due to various complicated rules. Since the introduction of the Inheritance (Guernsey) Law 2011 on 2 April 2012, those rules have been abolished and individuals have complete freedom of testamentary disposition, i.e. they can leave their assets exactly as they wish. Consequently, it is now even more important to think about planning for the future and ensuring that your affairs are in order.

However, this is only the case if you die leaving a will in place.

Although you may believe that your assets will pass to the people you wish to benefit upon your death, and therefore there is no need to make a will, all sorts of complications can arise if you die without leaving a will in place.

Most people do not realise that if no will is in place, and they die leaving a husband or wife and children, their spouse may not inherit the whole of their estate

Most people do not realise that if no will is in place, and they die leaving a husband or wife and children, their spouse may not inherit the whole of their estate. Further, unmarried couples are often not aware that they have no automatic legal entitlement to the estate of their deceased partner.

In addition, if you die without leaving a will in place, your heirs may need to make complex applications to either the Royal Court of Guernsey to have good title to your houses and land and/or to the Ecclesiastical Court of Guernsey to access the contents of your bank accounts, investments etc, involving procedures which can be much simpler, and therefore significantly more cost effective, if there is a will.

Under the new inheritance law certain classes of individuals will be able to make a claim against your estate if they feel that they have not been provided with what is known as "reasonable financial provision" either under the terms of a will, or due to Guernsey's laws of intestacy (where there is no will).

What is "reasonable financial provision" will depend on who makes a claim against your estate and, in most circumstances, the court will consider whether any financial provision is reasonable. In order to do this the court will look at a variety of factors including the financial resources and needs of any applicant or beneficiary of your estate, your obligations and responsibilities towards them, the size and nature of your net estate and any other matter which the court may consider relevant.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

By making a will you can take steps to pre- empt any such claims and ensure that dealing with your estate upon your death will be as simple as possible for your loved ones.

Making a will is one of those things that people never seem to be able to find the time to do, however having an up-to-date will is increasingly important.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

COLLAS CRILL

For more information please contact:



Joanne Seal

Group Partner*^ | Guernsey

t: +44 (0) 1481 734261 | **e:** joanne.seal@collascrill.com

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.