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Update to the Probate (Jersey) Law 1998: Probate (Amendment) (Jersey) Law (the PJL)

NOVEMBER 2023

On May 23 2023 the States debated and approved an amendment to the Probate (Jersey) Law 1998 (the **Amendment**) and this came into force on 27 October 2023.

Overview

The Amendment provides for new arrangements relating to the management of movable estate (or personal property such as cash, jewellery, clothes, chattels and can be a single item or multiple items and can include money) in Jersey and applies where the total value of the movable estate of a deceased person domiciled in Jersey does not exceed more than £30,000 or, where the deceased was domiciled outside of Jersey, where their Jersey situs assets alone do not exceed £30,000. It allows people who hold the personal property of a deceased person to release this personal property to another person in certain circumstances where a Grant of Representation is not in place.

This is done, primarily, by amending the existing Article 19 of the **PJL** to allow for five exceptions to apply to the requirement for a Grant to be produced to establish the right to recover or receive any part of the movable estate situated in Jersey of a deceased person.

The five exceptions

Previously, the only exception to Article 19 of the **PJL** was where a person, being domiciled *outside* of Jersey, left assets in Jersey with a value of under £10,000 and where the asset holder was provided sufficient comfort and security as they required so as to satisfy themselves that they were releasing these assets to the correct person.

Now, the new Article 19A provides that the asset holder may release the deceased's personal property without first seeing a Grant of Representation if:

1. the deceased did was not domiciled in Jersey and the gross value of their Jersey situs asset does not exceed £30,000; or
2. the deceased person was domiciled in Jersey and the gross value of their worldwide movable estate (as declared by the person applying to the asset holder to release the funds) does not exceed £30,000.

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In both situations, there must be no caveat in force on the estate and the person receiving the funds must declare to the asset holder that they acknowledge the asset holder is not liable for the estate once the funds have been released.

The rest of Articles 19B-E provide for other circumstances where personal property may be released without a Grant of Representation being issued. For example, Article 19C allows a funeral director to authorise that an item that was on, with or being worn by the deceased may be buried or cremated with that person if the value of that item appears to be less than £1,000. A funeral director may also release an item which appears to have a value of less than £10,000 to be buried or cremated with a deceased person, on application by a person who appears entitled to receive them (subject to certain conditions).

Article 19D provides that if the Viscount was acting as Delegate for Property and Affairs of a person who is now deceased, and the gross value of that person's estate is under £30,000, then the Viscount may, without requiring a Grant of Representation, release the estate to pay outstanding fees owed to a care home or funeral director, or any other outstanding bills which should properly be paid.

The Amendment also brings into effect a new offence under Article 19F which provides that a person who provides a false statement in relation to an application under new Articles 19A, 19B or 19C is liable to 12 months imprisonment and a fine.

Practical considerations

While this is a welcome change for some, as it will allow low-value estates to be distributed at little cost to the beneficiaries, it should be noted that a Grant of Representation (being a Grant of Probate if the deceased left a Will, or a Grant of Letters of Administration if they did not) must still be obtained if none of the exceptions above can be applied as the offence of intermeddling in Jersey under Article 21 of the **PJL** still very much applies.

Asset holders in Jersey must make sure that their policies and procedures are updated to ensure that the correct person receives the asset and to ensure that they have sufficient protection, in the form of an indemnity, for doing so (that a Grant otherwise provides). Staff will need to be well versed in the changes that have been made and what this means they have to ask clients for in terms of documents to prove their entitlement to a deceased person's assets.

For more information on our wills, probate and estate planning services please click here.

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