

Jersey: Probate and Letters of Administration in Jersey (non-Jersey Domicile)

GUIDE

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What are probate and letters of administration?

Where a person dies leaving Jersey movable estate, a grant of probate or, where the person did not leave a valid will, letters of administration, will be required to allow the estate to be administered by an executor or administrator. The grant is issued on application to the Jersey Probate Registry.

If the value of the deceased's Jersey movable estate does not exceed £30,000, an exemption may apply such that Jersey probate or letters of administration may not be required. However, the asset holder remains entitled to request that probate is obtained.

Subject to the above and a few other limited exceptions, it is a criminal offence under Jersey law to deal with or administer a deceased's Jersey movable estate unless a grant of probate or letters of administration has been obtained, and so great care must be taken to ensure that a grant is obtained where it is needed.

What is movable estate?

Broadly speaking, movable estate means assets not comprising real estate (otherwise known as immovable estate). Examples of Jersey movable estate include accounts at Jersey banks, shares and other securities issued by Jersey companies and tangible assets such as jewellery, furniture, paintings and cars physically situated in Jersey.

What is the difference between an executor and an administrator?

A person who dies leaving a valid will is said to have died 'testate'. The person (or persons) appointed in that will to administer the estate and distribute it is called the 'executor' and, assuming that person is able and willing to act, will be the person applying for the grant of probate.

A person who dies without leaving a valid will is said to have died 'intestate'. When a person dies intestate, letters of administration, rather than a grant of probate, will need to be obtained and a person, known as an 'administrator', will be the person applying for the letters of administration to grant them the power to administer and distribute the deceased's estate.

Collectively, executors and administrators are known as 'personal representatives'.

Fast-track applications for probate

If the deceased died domiciled in England, Scotland, Northern Ireland, Guernsey or the Isle of Man and probate, letters of administration or the equivalent have been obtained from the country of domicile, Jersey probate may be obtained by way of a 'fast-track' application (similar to the English law concept of a 're-seal'). More details of fast-track applications can be provided by us on request.

How can we help?

We routinely assist clients based outside Jersey with obtaining probate or letters of administration so that Jersey assets can be realised and distributed efficiently. We understand that no one relishes the prospect of dealing with a deceased person's estate and aim to make the process as efficient as possible.

Documents that we require

In order to proceed with an application for a grant of probate or letters of administration, we require the following documents.

When probate/letters of administration (or equivalent) have been obtained in the country of the deceased's domicile:

- a court sealed and certified copy of the grant of probate/letters (or equivalent) obtained in the country of the deceased's domicile at death, and
- where there is a will, the original or a court sealed and certified copy of the will and any codicils.

When probate/letters of administration (or equivalent) have not been (and will not be) obtained in the country of the deceased's domicile:

- confirmation as to the reason why probate/letters (or equivalent) will not be obtained in the country of the deceased's domicile at death (such as there being nominal or no assets in that country), and
- the original will or a court sealed and certified copy of the will. If there is no will, an affidavit will be required from a lawyer practising in the deceased's country of domicile to confirm who is entitled to administer the deceased's estate.

In both cases, we will also require:

- the original or a certified copy of the death certificate
- confirmation of the value of the deceased's Jersey movable estate as at the date of death
- any other documents which may be requested by the Jersey Probate Registry such as official translations of any documents not in the English language, copies of wills covering assets situated in other countries, certificates of inheritance or relevant court orders, and
- client identification documents (typically a copy passport and utility bill certified in accordance with our requirements).

The process

Once we have received the required documents, we will be in a position to prepare the papers needed to make application to the Jersey Probate Registry for the grant. The application involves the executor or administrator attending a short meeting at the Registry during which a statutory oath to properly administer the estate is sworn before the Registrar. If it is not possible or convenient for the executor or administrator to travel to Jersey to make the application in person (as is usually the case), a representative from Mourant can be appointed to make the application on behalf of the executor or administrator as their attorney. In this instance, we will need to be provided with a power of attorney and indemnity in favour of the attorney in our standard form.

The grant is usually made within 7 days after the swearing of the oath, and, following this, the executor, administrator or attorney (as the case may be) can begin to liaise with the asset holders, such as banks or portfolio managers, in order to call in the deceased's movable estate.

Stamp duty and our fees

There are no inheritance or capital gains taxes or death duties payable in Jersey. Stamp duty is, however, payable based on the value of the deceased's Jersey movable estate on the date of their death:

| | |
|--------------------------|---------------------------------|
| Does not exceed £10,000 | No fee |
| Does not exceed £100,000 | £50 per £10,000 or part thereof |

| | |
|--|---|
| Exceeds £100,000 but does not exceed £13,360,000 | £500 in respect of the first £100,000 and £75 for each additional £10,000 or part thereof |
| Exceeds £13,360,000 | £100,000 |

The Jersey Probate Registry also charges an application fee of £80 per professional application.

We provide fee quotes for our legal fees on a case-by-case basis depending on the complexity of the application. For more information, please contact us using the contact details provided below.

Terms of business

Where we are appointed, we will do so on the basis of a letter of engagement and our standard terms and conditions.

Contacts

A full list of contacts in our Jersey International Trusts & Private Client team can be found [here](#).

This guide is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this guide, please get in touch with one of your usual contacts. You can find out more about us, and access our legal and regulatory notices at [mourant.com](https://www.mourant.com). © 2024 MOURANT ALL RIGHTS RESERVED