

Considerations for non-Jersey residents when making a Will



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There are various issues to consider following a bereavement. After a death, it is necessary for the deceased's assets to be administered in each country where the assets are located.

If the deceased held a bank account or other asset in Jersey, it will be necessary for Probate to be taken out to deal with assets situated here.

If a deceased has made a Will in their country of domicile, then the Probate granted in that country would need to be sent to Jersey and a new Probate application made before the Jersey Court.

This process can take time to deal with and can potentially involve a requirement for Affidavits of Law to sworn relating to the laws of the deceased's domicile.

For the reasons above, it may be advisable for someone holding assets in Jersey to consider making a separate Will to deal with their Jersey assets. This is particularly important if the party lives outside of the United Kingdom, Isle of Man or the other Channel Islands.

The appointment of an Executor

The person named as Executor must attend personally before the Probate Registrar. If therefore the person does not live in Jersey it can be difficult for them to attend personally. If the named Executor cannot appear in person then they must either renounce their appointment or appoint an Attorney Executor to appear on their behalf. Whichever route the named Executor chooses they will not actually be administering the Estate although by appointing an Attorney they will still have ultimate responsibility and control. This firm has an Executor Company, BCR Executors Limited, which is available to be

appointed as Executor if a testator does not have a local resident they can appoint.

Revocation Clause

The standard revocation clause used in our Wills is amended to restrict the revocation to cover only Jersey based assets. It is important the testator does not inadvertently revoke their Jersey Will when they make new Wills in other jurisdictions. They should ensure that any revocation clause in their subsequent Wills excludes their Jersey based assets. It is recommended their original Jersey Will is held with their existing Wills or their 'usual' lawyer is at least given a copy of their Jersey Will.

Beneficiaries

As with all Wills it important that the beneficiaries can be identified and so we will need the full names (including maiden names) and current addresses of the beneficiaries.

Gifts Over if Beneficiaries Predecease

It is advisable to make provision in your Will for a further gift over should one or more of your beneficiaries predecease you. There are three options in this regard:

- Name an alternative third party as a beneficiary
- State that the rest of the beneficiaries (if there is to be more than one) will take the deceased beneficiary's share
- State that the deceased beneficiary's children will take their deceased parent's share of your Estate.

Funeral Arrangements

Please note it is not usual for a Will for non-Jersey resident to include funeral provisions as these are usually covered in the Will in their country of residence.

Validity

We cannot advise on whether the making of a Jersey Will is permitted under the law of the testator's country of residence and recommend that relevant advice is taken from a lawyer qualified in that jurisdiction.

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