

PROBATE (JERSEY) LAW 1998

Official Consolidated Version

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Jersey

PROBATE (JERSEY) LAW 1998

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Jersey

PROBATE (JERSEY) LAW 1998

A LAW to consolidate and further amend the law relating to grants of probate and letters of administration, the administration and distribution of the estate of deceased persons and ancillary matters

Commencement [see endnotes]

PART 1

PRELIMINARY

1 Interpretation

(1) In this Law, unless the context otherwise requires –

"1993 Law" means the Wills and Successions (Jersey) Law 1993;

"administration" means letters of administration of the movable estate of a deceased person;

"advocate" means advocate of the Court;

"caveator" means a person by or on whose behalf a caveat is lodged;

"Court" means the Royal Court;

"designated" means designated by Order of the Minister;

"enactment" includes an enactment of the United Kingdom registered in the Court;

"executor dative" means an executor other than an executor nominate;

"executor nominate" means an executor named in the will of a deceased person and includes the attorney of the executor specially appointed by the executor as such, and the guardian of the executor;

"funeral director" means a person in Jersey having charge of the burial or cremation of a deceased person;

"grant" means a grant of probate or administration;

"holder" means a person in Jersey who holds any movable estate of a deceased person;

"Inferior Number" means the Inferior Number of the Court;

"Minister" means the Minister for Health and Social Services;

"movable estate" means personal or movable property;

"prescribed" means prescribed by rules of court;

"specified" means specified in Regulations made by the States;

"state" means a territory or group of territories having its own law of nationality;

"testamentary cause or matter" includes all causes or matters relating to the grant or revocation of probate or administration, to the revocation (*cassation et annulation*) of a will and to the reduction of a will *ad legitimum modum*;

"trust corporation" means an association incorporated by enactment of the States or a company registered under the law governing the registration in Jersey of companies with limited liability, being an association or company which is –

(a) empowered by its constitution to undertake the business of acting as executor and administrator; and

(b) authorized by Act of the Court to apply for grants;

"will" means a will of movable estate (whether or not any real or immovable estate is devised by the will) and includes any testamentary instrument of which probate may be granted.[1]

(2) Unless the context otherwise requires, a reference in this Law to an enactment is a reference to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under another enactment including any other provision of that enactment.

2 Jurisdiction of the Court

(1) The Court shall have all jurisdiction in relation to probates and administrations as it had immediately before this Law came into force, that is to say, jurisdiction –

(a) in relation to the grant or revocation of probate and administration of the movable estate of deceased persons, including jurisdiction to make a grant in respect of a deceased person notwithstanding that the deceased person leaves no estate, and to make a grant of administration of the effects of a deceased person who dies leaving direct heirs who survive the deceased person; and

(b) to hear and determine all questions relating to a testamentary cause or matter.

(2) The Court shall, in the exercise of the jurisdiction conferred by paragraph (1), perform all such like duties with respect to the estates of deceased persons as it performed immediately before this Law came into force in relation to the matters in which it has jurisdiction.

(3) The jurisdiction conferred and duties imposed on the Court by this Article shall be exercised in the Probate division.

(4) The jurisdiction conferred and duties imposed on the Court by this Article shall, so far as regards procedure and practice, be exercised in the manner provided by and under this Law or, where no provision is made, in the manner which has previously been customary.

3 The Bailiff, Jurats and officers of the Court

Subject to this Law and to rules of court, the Bailiff, Jurats, Attorney General, Solicitor General, Viscount and Judicial Greffier shall perform duties in the Probate division of the Court analogous to those performed by them respectively in the Samedi division of the Court.

4 Power of the Court as to witnesses and documents

(1) In the exercise of the jurisdiction conferred on it by Article 2, the Court may –

(a) order to appear before it any person whom it may think fit to examine;

(b) examine any person upon oath or affirmation, as the case may require;

(c) before, after or without examination, receive any affidavit or affirmation given by any person;

(d) order any person to produce and bring into court or otherwise as the Court may direct, any deeds, evidences, paper or writings as it may think proper which are in the person's possession, custody or control; and

(e) order a person it has reasonable grounds for believing has knowledge of any paper or writing being or purporting to be testamentary to attend for the purpose of being examined respecting the same.

(2) Any person who disobeys an order under paragraph (1) shall be guilty of contempt of court.

5 Power and rôle of Judicial Greffier

(1) The Judicial Greffier shall have full power to administer oaths for the purposes of this Law.

(2) In the authentication of grants, orders and other instruments, and of copies of such documents, the Judicial Greffier may describe himself or herself as Registrar.

PART 2

GRANTS OF PROBATE AND ADMINISTRATION

6 Application for and making of grant

(1) An application for a grant shall be made to the Judicial Greffier.

(2) An application may be made through an advocate or solicitor or in person by persons claiming to be entitled to a grant.

(3) A grant shall be made by the Judicial Greffier in the name of the Royal Court (Probate division) under the seal of the Probate division.

(4) A grant shall have effect over the movable estate of the deceased person.

(5) Subject to paragraphs (7) and (13), the Judicial Greffier shall not make a grant until all the enquiries which the Judicial Greffier may see fit to institute in relation to the application have been answered to the Judicial Greffier's satisfaction.

(6) In the exercise of the Judicial Greffier's duties under paragraph (5), the Judicial Greffier shall afford as great facilities for the obtaining of grants as are consistent with a due regard to the prevention of error or fraud.

(7) Where a deceased person dies domiciled in a specified jurisdiction, the Judicial Greffier may make a grant without making any enquiries under paragraph (5), upon an application being made in such manner and with such supportive evidence as shall be prescribed.

(8) Subject to paragraph (13), no grant shall be made by the Judicial Greffier –

(a) in any case where there is contention, until the contention is disposed of; or

(b) in any case where the Judicial Greffier is required to present a statement under paragraph (9), without the directions of the Inferior Number to so proceed.

(9) Subject to paragraph (13), the Judicial Greffier shall present a statement to the Bailiff for the directions of the Inferior Number in any case –

(a) where it appears doubtful to the Judicial Greffier whether or not a grant should be made; or

(b) where any question arises in relation to an application for a grant.

(10) Where a statement is presented, the Inferior Number may –

(a) direct the Judicial Greffier to proceed with the matter in accordance with such instructions as it thinks necessary; or

(b) forbid any further action by the Judicial Greffier in relation to the matter.

(11) Where the Inferior Number forbids any further action by the Judicial Greffier in relation to the matter, the person applying for the grant may apply to the Inferior Number.

(12) Upon an application made under paragraph (11), the Inferior Number may order such persons to be convened, such evidence taken and such enquiries made as it considers necessary and may make such order as the circumstances require.

(13) The Judicial Greffier may, without making any enquiries under paragraph (5) and notwithstanding paragraphs (8) and (9), grant probate or administration where all the parties who, in the Judicial Greffier's opinion should be consulted, consent to the making of the grant.

7 Evidence of death

(1) An applicant for a grant shall provide the Judicial Greffier with a certificate of the death of the deceased person to whom the application relates, or such other evidence of the death as the Judicial Greffier may approve.

(2) Where the applicant is unable to provide such evidence as aforesaid, the Judicial Greffier shall present a statement of the matter to the Bailiff for the directions of the Inferior Number.

(3) The Inferior Number shall –

(a) order the applicant to be convened and hear such evidence of the death as the applicant produces; and

(b) order such other persons to be convened, such additional evidence to be heard and such enquiries made as it considers necessary.

(4) If the Inferior Number is satisfied that the death of the person to whom the application relates may be presumed beyond all reasonable doubt to have occurred on or after a certain date, it may make a declaration to that effect and such order as the circumstances require.

(5) A declaration made under paragraph (4) shall be –

(a) received in any proceedings as evidence of the death of the person to whom it relates; and

(b) deemed to be proof of the death, unless cause to the contrary is shown.

8 Oath of executor or administrator

Every executor or administrator shall, before the making of a grant, make an oath in such form as may be prescribed.

9 Caveats

(1) Any person having an interest in the movable estate of a deceased person and intending to oppose the making of a grant may lodge a caveat with the Judicial Greffier.

(2) A caveat shall be in such form as may be prescribed and may be lodged through an advocate or solicitor or in person.

(3) A caveat shall have effect from the day on which it is lodged and remain in effect until whichever is the earlier of –

(a) its withdrawal by the caveator;

(b) its clearing off pursuant to an order of the Inferior Number;

(c) the determination by judgment or order of the Inferior Number of the matter in dispute between the parties; or

(d) subject to paragraph (5) of this Article and Article 10(3), the expiry of the period of 6 months beginning on the day it is lodged.

(4) Subject to Article 10(4), where a caveat has effect, no grant shall be made in the estate to which it relates.

(5) A caveat may be renewed by the caveator.

(6) A caveat may be withdrawn by the caveator.

10 Proceedings consequent on caveats

(1) Any person whose application for a grant has been stopped by a caveat may serve a summons upon the caveator, in such manner as may be prescribed, calling upon the caveator to appear before the Inferior Number to show cause why the caveat should not be cleared off.

(2) If the caveator does not appear in answer to the summons, the Inferior Number may –

(a) order the caveat to be cleared off; and

(b) make such other order as the circumstances of the case may require.

(3) If the caveator appears in answer to the summons, the Inferior Number may order that, until the matter in dispute between the parties has been determined by judgment or order, the caveat shall remain in effect.

(4) Where the Inferior Number makes an order under paragraph (3), it may also –

(a) place the estate of the deceased person in the possession of the Viscount or some other person pursuant to Article 15; or

(b) authorize the Judicial Greffier to make a grant to such person and limited in such manner (if any) as it directs.

(5) Where a caveator appearing in answer to a summons contests the validity of a testamentary instrument of the deceased person in relation to whose movable estate the caveat was lodged, the Inferior Number shall determine the question of the validity or invalidity, in whole or in part, of that instrument in the same manner *mutatis mutandis* as if it were hearing an action for the setting aside (*cassation et annulation*) of a will of movable estate.

(6) If the Inferior Number determines that a testamentary instrument is wholly or partially valid it shall –

(a) pronounce for the validity of the whole or part of the instrument; and

(b) authorize the Judicial Greffier to grant probate to such person as is found by it to be entitled to the grant.

(7) If the Inferior Number determines that a testamentary instrument is invalid it shall –

(a) pronounce against the validity of the instrument; and

(b) authorize the Judicial Greffier to grant probate of a valid testamentary instrument or, if as a result of the proceedings there is an intestacy, to grant administration, in either case the grant to be to such person as is found by the Inferior Number to be entitled to it.

(8) Where a caveator appearing in answer to a summons contests the right of the person who has applied for a grant to obtain such grant and alleges a prior right in himself or herself or some other person, the Inferior Number shall determine who is entitled to the grant and authorize the Judicial Greffier to make a grant to that person.

(9) Where a caveator appearing in answer to a summons raises an objection to the making of a grant other than an objection to which paragraph (5) or (8) applies, the Inferior Number shall hear the objection and make such order as the circumstances may require.

(10) Any order made under this Article may include an order for the payment of damages.

11 Grant to a trust corporation

(1) The Judicial Greffier may –

(a) where a trust corporation is named in a will as executor, whether alone or jointly with another person, grant probate to the corporation, either solely or jointly with another person, as the case may be;

(b) grant probate to a trust corporation as executor dative, either solely or jointly with another person; and

(c) grant administration to a trust corporation, either solely or jointly with another person.

(2) Probate or administration shall not be granted to a nominee on behalf of a trust corporation.

(3) Any officer authorized for the purpose by a trust corporation or its directors or governing body may, on behalf of the corporation, swear affidavits or do any other act or thing which the Judicial Greffier may require with a view to the making of a grant to the corporation, and the acts of an officer so authorized shall be binding on the corporation.

(3A) Probate or administration is not to be granted to an association or company other than a trust corporation.[2]

(4) Where any association or company which is not incorporated or registered in Jersey is named in a will as executor, whether alone or jointly with another person, nothing in this Article shall restrict the power of the Judicial Greffier under Article 12 to grant probate to the attorney of such association or company specially appointed by it for the purpose.

12 Grant to attorney

(1) Where a person entitled to a grant in relation to the movable estate of a deceased person appoints an attorney specially for the purpose, the Judicial Greffier may make the grant to the attorney.

(2) A grant made pursuant to paragraph (1) shall be made to the attorney personally.

13 Grant to executor dative

(1) Where a person dies leaving a will without having named an executor who is willing and competent to take probate, it shall be granted to an executor dative.

(2) Where a person dies leaving a will having named an executor who is willing and competent to take probate but the Judicial Greffier considers, on exceptional grounds, that it may not be appropriate for that person to take the grant, the Judicial Greffier may refer the matter to the Inferior Number.

(3) Where a matter is referred to it under paragraph (2), the Inferior Number may, on exceptional grounds, name a person, other than the person named as executor in the will, as entitled to a grant as executor dative, and authorize the Judicial Greffier to make such a grant to the person.

(4) Where probate is granted to an executor dative, the will of the deceased person shall be performed and observed in the same manner as if probate had been granted to an executor nominate.

14 Entitlement to grant as administrator or executor dative

(1) This Article applies where a person dies –

(a) wholly intestate as to the person's movable estate; or

(b) leaving a will without having named an executor who is willing and competent to take probate.

(2) Subject to paragraphs (3), (5) and (6), where the person dies leaving a spouse, or a civil partner, as the case may be, the spouse or civil partner shall be the person entitled to the grant.[3]

(3) Subject to paragraphs (5) and (6), where the person dies leaving a spouse or civil partner in the circumstances described in Article 8(1)(a) and (b) or Article 8AA(1)(a) and (b) of the 1993 Law, the person entitled to the grant shall be the person who would have been so entitled according to customary law if the spouse or civil partner had died before the deceased.[4]

(4) Subject to paragraphs (5) and (6), where the person dies without leaving a spouse or civil partner, the person entitled to the grant shall be such person as may be specified or, if none, the person so entitled according to customary law.[5]

(5) Subject to any authorization under paragraph (6), where, in any case to which this Article applies, it appears to the Judicial Greffier to be necessary or convenient by reason of any special circumstance to make a grant to some person other than the person entitled to the grant, the Judicial Greffier –

(a) shall not be obliged to make a grant to the person entitled; and

(b) may make a grant to such person and limited in such manner as the Judicial Greffier thinks fit.

(6) Where, in any case to which this Article applies, it appears to the Inferior Number to be necessary or convenient by reason of any special circumstance, that a grant should be made to some person other than the person entitled to the grant, it may authorize the Judicial Greffier –

(a) not to make a grant to the person entitled; and

(b) to make a grant to such person and limited in such manner as it thinks fit.

(7) In this Article, "grant" means a grant as administrator of the deceased person's movable estate or as executor dative, as the case may require.

15 Viscount or other person in possession *pendente lite*

(1) The Inferior Number may place the estate of a deceased person in the possession of the Viscount or some other person where –

(a) any legal proceedings touching the validity of the will of the deceased person or for obtaining, recalling or revoking any grant are pending; or

(b) the Judicial Greffier presents a statement to the Bailiff for the directions of the Inferior Number under Article 6(9).

(2) The Viscount or other person in possession of the estate shall act under the direction of the Inferior Number.

16 Revocation of grant by consent

The Judicial Greffier may revoke a grant where all the parties who, in the Judicial Greffier's opinion, should be consulted, consent to the revocation.

17 Removal of executor or administrator

(1) The Attorney General or any person with an interest in the movable estate of a deceased person may apply to the Inferior Number on exceptional grounds for an order that an executor or administrator be removed from office.

(2) If the Inferior Number makes an order removing an executor or administrator from office, it shall at the same time name another person to be executor or administrator in their place, and authorize the Judicial Greffier to make a grant to that person.

18 Second and subsequent grants

(1) If any person to whom a grant has been made, either solely or jointly with another person, dies, becomes incapacitated or bankrupt leaving a part of the movable estate of the deceased person unadministered, the Judicial Greffier may make a grant to some other person to act in the person's place.

(2) If any person to whom a grant has been made wishes to retire, the Judicial Greffier may make a grant to another person to act in the person's place.

(3) If any person to whom a grant has been made wishes an additional person to be appointed to act together with the person, the Judicial Greffier may make a grant to that person.

(4) In paragraph (1), the reference to a person becoming bankrupt includes a person becoming the subject of insolvency proceedings of a similar nature to bankruptcy in any place outside Jersey.

(5) This Law applies, subject to rules of court, *mutatis mutandis* to second and subsequent grants as it applies to original grants.

PART 3

RECOVERY AND DISTRIBUTION OF ESTATE

19 Necessity for production of grant[6]

Subject to Articles 19A to 19E, and except as otherwise provided by any other enactment, the production of a grant is necessary to establish the right to recover or receive any part of the movable estate situated in Jersey of a deceased person.

19A Exception for small estates[7]

(1) A holder may release movable estate to a person (the "applicant"), without the production of a grant if the conditions in paragraph (2) are met and either –

(a) the deceased person dies domiciled other than in Jersey and the gross value of that person's movable estate in Jersey held by the holder does not exceed £30,000; or

(b) the deceased person dies domiciled in Jersey, and –

(i) the gross value of the deceased person's movable estate in Jersey held by the holder does not exceed £30,000, and

(ii) the applicant declares that the gross value of the deceased person's worldwide movable estate does not exceed £30,000.

(2) The conditions are –

(a) the applicant acknowledges in writing that the holder is not liable to any other beneficiary of the deceased person's estate for the movable estate that is released to the applicant;

(b) it appears to the holder that the applicant is entitled to receive the movable estate under the terms of the deceased person's will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death; and

(c) there is no caveat in force in respect of the deceased person's estate.

19B Exception for particular holders of movable estate[8]

(1) The Minister may designate types of holder who may release movable estate without the production of a grant ("particular holders").

(2) A person applying to a particular holder (the "applicant") must use an application form containing the designated information.

(3) A particular holder must not release the estate to the applicant unless –

(a) it appears to the particular holder that the value of the movable estate held by the particular holder does not exceed £30,000;

(b) the applicant declares that the gross value of the deceased person's worldwide movable estate does not exceed £30,000;

(c) it appears to the particular holder that the applicant is entitled to receive the movable estate under the terms of the deceased person's will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death;

(d) the applicant meets any other designated requirement found in the application form;

(e) the applicant acknowledges in writing that the particular holder is not liable to any other beneficiary of the deceased person's estate for the movable estate that is released to the applicant; and

(f) there is no caveat in force in respect of the deceased person's estate.

19C Exception in respect of items worn by deceased person[9]

(1) This Article applies –

(a) to a funeral director; and

(b) with respect to an item of the deceased person's movable estate situate in Jersey that was on or with, or worn by, the deceased person at the time of that person's death (an "item").

(2) A funeral director may, without production of a grant, authorise that a deceased person may be buried or cremated with an item if it appears to the funeral director that the value of the item does not exceed £1,000.

(3) A funeral director may, on receipt of an application containing the designated information, release an item to a person (the "applicant") without the production of a grant if –

(a) the item is to be buried or cremated with the deceased person;

(b) it appears to the funeral director that the applicant is entitled to receive the item under the terms of the deceased person's will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death;

(c) it appears to the funeral director that the value of the item does not exceed £10,000;

(d) the applicant meets any other designated requirement contained in the application form;

(e) the applicant acknowledges in writing that the funeral director is not liable to any other beneficiary of the deceased person's estate for the item; and

(f) there is no caveat in force in respect of the deceased person's estate.

19D Exception for Viscount acting as court-appointed delegate[10]

(1) This Article applies if, at the time of death, the Viscount is appointed under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016 as delegate for the deceased person in respect of that person's property and affairs.

(2) If, at the time of death, the Viscount is the holder of the whole or a part of the deceased person's estate the Viscount may, without producing a grant, release that estate if –

(a) the Viscount is satisfied that the gross value of the deceased person's worldwide movable estate does not exceed £30,000; and

(b) the estate is released in order to –

(i) pay to a funeral director the amount of any outstanding bill in relation to the funeral of the deceased person,

(ii) pay to an approved care home (as defined in Article 6 of the Long-Term Care (Jersey) Law 2012) the amount of any outstanding care home fees in respect of the deceased person,

(iii) pay any other outstanding bills of the deceased for which the Viscount considers payment should properly be made, or

(iv) repay to the relevant provider any overpayment of benefits or pension made in respect of the deceased person.

(3) In this Article, "bill" means a properly invoiced outstanding sum.

19E Exception for bona vacantia[11]

A holder may release movable estate to the Receiver-General without the production of a grant if the holder, despite reasonable effort, cannot identify a person to whom the movable estate should be released under the terms of the deceased person's will or the laws relating to intestate succession in the country in which the deceased was domiciled at death.

19F Offence for false statement[12]

A person who, in an application under Article 19A, 19B or 19C or in connection with such an application, makes a statement which that person knows or believes to be false in any material particular commits an offence and is liable to imprisonment for a term of 12 months and to a fine.

20 Protection for person releasing movable estate under grant

Any person acting in good faith who releases or permits the release of any movable estate upon any grant made under authority of this Law shall be protected and saved harmless in respect of that act from any action brought on behalf of the estate of the deceased person or by any beneficiary of the estate, notwithstanding any defect or circumstance whatsoever affecting the validity of the grant.

21 Protection for person releasing movable estate without grant[13]

(1) A holder who, in good faith and in accordance with any of Articles 19A to 19E, releases any movable estate of a deceased person is, in respect of that release, protected and saved harmless from any action brought on behalf of the estate of the deceased person or by any beneficiary of the estate.

(2) Where a holder relies on paragraph (1), the holder must provide details and an explanation of the actions relating to the release of the movable estate to the person bringing the action if that person demands them.

(3) Nothing in this Article limits any liability on a holder under any other enactment or customary law.

22 Release or payment under revoked grant

(1) Any person acting in good faith who releases or permits the release of any movable estate to any executor or administrator upon any grant made under authority of this Law which is subsequently revoked shall be protected and saved harmless in respect of that act from any action brought on behalf of the estate of the deceased person or by any beneficiary of the estate.

(2) An executor or administrator who has acted under a grant which is subsequently revoked under this Law may retain and reimburse himself or herself in respect of any payments made by the executor or administrator before the revocation which the person to whom a second or subsequent grant is made might have lawfully made.

23 Offence of intermeddling[14]

(1) Subject to paragraph (2), if any person, other than a person acting in accordance with any of Articles 19A to 19E or any other enactment, takes possession of or in any way administers any part of the movable estate of a deceased person without obtaining a grant, the person shall be guilty of an offence and liable to a fine and to imprisonment for a term of 12 months.[15]

(2) No person shall be guilty of an offence by reason only of the fact that the person has made arrangements for disposing of the body of the deceased person in any manner authorized by law or custom or from placing in safe custody or otherwise preserving the movable estate of the deceased.

24 Duty of executor or administrator as to inventory

The Court may, on the application of any person interested in the movable estate of a deceased person, order the executor or the administrator, as the case may be, to exhibit on oath in court a true and perfect inventory and account of the movable estate of the deceased person.

PART 4

VARIATION AND DISCLAIMER OF INTERESTS

25 Variation of dispositions etc. by consent

(1) Subject to paragraph (2), the Court may by order made with the consent of all parties who in its opinion should be consulted and having regard only to the interests of the beneficiaries or heirs interested in so much of the estate as is affected by the order –

(a) vary any disposition (whether effected by will, under the law of intestacy or otherwise) of the movable estate of the deceased person;

(b) provide that any variation made under sub-paragraph (a) shall have effect as if it were a disposition effected by the will of the deceased person or under the law of intestacy, as the case may be; and

(c) direct to whom and in what manner the movable estate of the deceased person shall be distributed.

(2) An order for a variation under paragraph (1)(a) may only be made within 2 years after the death of the deceased person.

26 Disclaimer of interest

(1) A person beneficially entitled to an interest in the movable estate of a deceased person may, at any time before the interest is distributed to him or her, disclaim the interest.

(2) A disclaimer shall be made by giving notice, in such form as may be prescribed, to the Judicial Greffier and to the executor or administrator, as the case may be.

(3) Where notice is given in accordance with paragraph (2), the person making the disclaimer shall be treated as having died before the deceased person for all purposes relating to the movable estate of the deceased person.

PART 5

MISCELLANEOUS AND SUPPLEMENTAL

27 Deposit of and access to wills and other documents

(1) All original wills under the control of the Court shall be deposited and preserved in such place as the Court may direct.

(2) Any document under the control of the Court other than an original will shall be deposited and preserved or otherwise dealt with in such manner as shall be prescribed.

(3) All original wills under the control of the Court and copies of grants shall be open to inspection.

(4) Access to any document under the control of the Court to which paragraph (3) does not apply shall be regulated in such manner as shall be prescribed.

28 Official copies

An official copy of the whole or any part of a will, or an official certificate of any grant may be obtained from the Judicial Greffier.

29 Validity of will

(1) A will shall be treated as properly executed if, at the time of its execution or at the time of the testator's death, its execution conforms to –

(a) the internal law in force –

(i) in the territory where it was executed,

(ii) in the territory where the testator was domiciled,

(iii) in the territory where the testator was habitually resident, or

(iv) in a state of which the testator was a national; or

(b) the law of Jersey.

(2) For the purposes of this Article, the internal law in force in a territory or state is the law which would apply in a case where no question of the law in force in any other territory or state arose.

30 Domicile of dependence for probate purposes

(1) For the purposes of a grant in and the distribution of the movable estate of a deceased person who has at any time been married or in a civil partnership, the deceased person's domicile shall be ascertained by reference to the same factors as in the case of any other individual capable of having an independent domicile.[16]

(2) For the purposes of a grant in and the distribution of the movable estate of a deceased minor, the deceased minor shall have first become capable of having an independent domicile when (if at all) the deceased minor attained the age of 16 years or married under that age.

31 Regulations[17]

(1) The States may by Regulations specify anything which must or may be specified for the purposes of this Law.

(2) The States may by Regulations amend any provision, other than this paragraph, of this Law, to repeal that provision or to make alternative or additional provision in relation to grants of probate and letters of administration, the administration and distribution of the estate of deceased persons, and related matters.

32 Rules of Court

(1) The power to make rules of court under the Royal Court (Jersey) Law 1948 shall include a power to make rules for the purposes of this Law.

(2) The power to make rules pursuant to paragraph (1) shall include the power to prescribe anything which shall or may be prescribed for the purposes of this Law.

(3) [18]

32A Orders[19]

The Minister may by Order –

(a) amend the monetary values in Articles 19A(1), 19B(3), 19C(2) or (3) or 19D(2); and

(b) designate anything which must or may be designated for the purposes of this Law.

32B Application to the Crown[20]

(1) This Law binds the Crown, except as provided in this Article.

(2) Nothing in this Law prevents the Receiver-General from receiving and holding any unclaimed movable estate without a grant in accordance with law or custom.

(3) Articles 19F and 23 do not apply to the Crown, but do apply to persons in service to the Crown.

(4) This Law does not apply to His Majesty in his private capacity.

32C Transitional provision[21]

(1) In this Article –

(a) "commencement date" means the date of commencement of the first Order made under Article 19B(1);

(b) "particular holder" means a holder designated by Order.

(2) If, on the commencement date, a particular holder holds estate of a deceased person whose date of death was within the 10 years immediately preceding the commencement date, Article 19B applies as though it came into force on the date of death.

33 Citation

This Law may be cited as the Probate (Jersey) Law 1998.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
Probate (Jersey) Law 1998	L.16/1998	2 January 1999 (R&O.9297)	
Civil Partnership (Jersey) Law 2012	L.4/2012	2 April 2012	P.85/2011
Legislation (Jersey) Law 2021	L.8/2021	28 September 2021 (R&O.112/2021)	P.26/2021
Probate (Amendment) (Jersey) Law 2023	L.11/2023	27 October 2023	P.16/2023

◦Projets available at statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
PART I	PART 1
1(2), (3)	spent, omitted from this revised edition
1(4)	1(2)
PART II	PART 2
PART III	PART 3
PART IV	PART 4
PART V	PART 5
33	spent, omitted from this revised edition
34	33

Table of Endnote References

[1] *Article 1(1)* *amended by L.11/2023*
[2] *Article 11(3A)* *inserted by L.11/2023*
[3] *Article 14(2)* *substituted by L.4/2012*
[4] *Article 14(3)* *amended by L.4/2012, editorial change, "or Article 8AA(1)(a) and (b)" inserted*
[5] *Article 14(4)* *amended by L.4/2012*
[6] *Article 19* *substituted by L.11/2023*
[7] *Article 19A* *inserted by L.11/2023*
[8] *Article 19B* *inserted by L.11/2023*
[9] *Article 19C* *inserted by L.11/2023*
[10] *Article 19D* *inserted by L.11/2023*
[11] *Article 19E* *inserted by L.11/2023*
[12] *Article 19F* *inserted by L.11/2023*
[13] *Article 21* *substituted by L.11/2023*
[14] *Article 23* *heading amended by L.11/2023*
[15] *Article 23(1)* *amended by L.11/2023*

[16] *Article 30(1)* *substituted by L.4/2012*
[17] *Article 31* *substituted by L.11/2023*
[18] *Article 32(3)* *deleted by L.8/2021*
[19] *Article 32A* *inserted by L.11/2023*
[20] *Article 32B* *inserted by L.11/2023*
[21] *Article 32C* *inserted by L.11/2023*