

Probate for United Kingdom Residents

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What is probate?

Probate is the term used both for the Grant of Probate itself and the process involved in applying for the right to deal with the estate of someone who has passed away.

What is an Executor and what is an Administrator?

The person who administers the estate of someone who has passed away and named the person to carry out the administration in their Will is called an Executor. An Administrator is the person appointed as the personal representative for a person who died without making a Will or naming someone to administer their estate.

What happens if someone has a Will?

A Court sealed and certified copy of the Grant, Will and any Codicils is proved before the Royal Court of Jersey. Once the Jersey Grant of Probate is issued, the Executor of the estate can proceed with the administration of the Jersey Estate in accordance with the provisions of the Will.

What happens if there is no Will?

A Court sealed and certified copy of the Letters of Administration is proved before the Royal Court of Jersey. Once the Jersey Letters of Administration are issued the Administrator can administer the Jersey Estate.

Do I need to apply for a Grant of Probate/Letters of Administration?

If the deceased had Jersey assets with a total value of over £10,000, then an application has to be made for a Jersey Grant of Probate/Letters of Administration.

How can I apply for a Jersey Grant of Probate/Letters of Administration?

There are two ways to make an application for a Jersey Grant of Probate/Letters of Administration if the deceased was domiciled in (treated as their permanent home) England, Wales, Northern Ireland, Guernsey, Scotland or the Isle of Man.

The Executor/Administrator can (i) come to Jersey to submit the application in person, or (ii) appoint an Advocate to act as their Attorney to make the probate application.

The Attorney would collect in the Jersey assets and distribute them in accordance with the Executor/Administrator's instructions. Alternatively, the application can be made using the "Fast-track" procedure through a Jersey firm, which is quicker and cheaper.

What is a Fast Track application?

The fast track procedure is the process by which you can apply for a Jersey Grant of Probate or Letters of Administration. The person appointed by the Grant can execute an Oath and make a postal application through the office of a Jersey agent such as Ogier.

Who can make a Fast-Track application?

The Fast Track application is only available if the deceased was domiciled in England and Wales, Scotland, Northern Ireland, Guernsey or the Isle of Man, and a Grant has been obtained in one of these jurisdictions.

What if it is not necessary to obtain a Grant of Probate/Letters of Administration in any other jurisdiction?

If it is not necessary to make a Probate application anywhere other than Jersey, then the original Will (if there is one) can be used for the application, but please note the original will be retained by the Jersey Court. It is likely that an Affidavit of Foreign Law will be required explaining why the original Will is not being probated anywhere else. If there is no Will an Affidavit of Foreign Law will be required to explain who is entitled to make the probate application.

What is domicile and how is it important?

Domicile will usually be the place where someone has lived and intended to stay for the rest of his or her life. It is important to know the domicile of the person who has died because the law of that country provides the rules about who can inherit the person's belongings.

How Ogier can help

We can provide you with expert advice in all areas of probate work including the administration of a deceased person's estate including all the necessary applications for probate.

What documents do I need before making a probate application?

A court sealed and certified copy of the Grant of Probate, Will and any Codicils or Letters of Administration from the deceased's country of domicile.

If the deceased left more than one Will which covered their assets in other countries, then a copy will be required to confirm that it does not revoke the Will covering the Jersey assets.

Original or a certified copy of the death certificate, interim death certificate or letter of fact of death.

Value of the Jersey assets.

Client identification in the form of a certified copy passport and utility bill or bank statement which is no more than three months old confirming the residential address(es) of the Executor(s) / Administrator(s).

What are the costs of taxes or duties involved?

There are no death duties, estate duty, inheritance tax or capital gains tax in Jersey. Stamp duty is payable upon application for the Grant of Probate. Stamp duty is at a rate of 0.5% of the value of the assets at the date of death. This is rounded up to the nearest £10,000 on estates up to £100,000. For estates over the value of £100,000, there is a rate of £75 per each additional £10,000.

Value (at date of death) Stamp duty

£00.00 - £10,000 Nil

£10,001 - £20,000 £100

£20,001 - £30,000 £150

£30,001 - £40,000 £200

£40,001 - £50,000 £250

£50,001 - £60,000 £300

£60,001 - £70,000 £350

£70,001 - £80,000 £400

£80,001 - £90,000 £450

£90,001 - £100,000 £500

Then, for each £10,000 add £75.

There is a maximum charge of £100,000 stamp duty which was introduced with effect from 1 January 2013.

The Probate Registrar will also charge a flat stamp duty fee of £80 on all applications. The Royal Court Probate Department may charge an additional fee for reviewing paperwork before an application which varies depending upon the number of papers to be reviewed, but normally is a minimum of £75.

If you would like more information about applying for a Grant of Probate, please contact us, we can help you in all aspects of your application.

The information and expressions of opinion contained in this guide are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

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