

Born this way: The end of illegitimacy in Jersey law and key changes for Jersey trusts

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The Civil Status (Abolition of Legitimacy Etc) (Jersey) Law 2025 (**the Law**), which came into force on 24 November 2025 has abolished the concept of illegitimacy in Jersey. This reform forms part of Jersey's long-term policy objective to eliminate the historic inequalities associated with the status of illegitimacy and to ensure that all children benefit from equal rights regardless of their parents' marital status.

The legal position before the reform

Under the Legitimacy (Jersey) Law 1973, only children born to married, mixed-sex couples were considered "legitimate". All other children, including those born to unmarried, same-sex couples, or through surrogacy, were classified as "illegitimate" at birth—a status that applied to nearly half of all children born in Jersey in 2024.

The Wills and Succession (Jersey) Law 1993, which makes (among other things) provision relating to inheritance and wills of movable and immovable estate, had already equalised succession rights between legitimate and illegitimate children, however certain differences persisted as various statutory and customary law provisions continued to reference a person's status as illegitimate.

The new law

The Law has eliminated the concept of illegitimacy entirely. Article 1 of the Law states:

"No person whose status is governed by the law of Jersey is illegitimate, and any rule of customary law to the contrary is abolished."

The Law also provides that the fact that a person's parents are not married would not be taken into account in determining their legal status or establishing the legal relationship between them and another person.

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Additional reforms introduced by the Law include more flexible and inclusive rules for birth registration—such as recognising posthumous paternity and allowing the correction of paternity on historical civil status records.

Limited savings provisions remain. For instance, the abolition does not apply to those areas of customary law where distinctions related to birth status may still be relevant, such as hereditary title, coats of arms, and manorial rights. Most notably, the changes do not apply retrospectively to any trust established and/or any document, other than a will, executed before 24 November 2025. A will or other testamentary document "speaks from the date of death", so any person with a will made before 24 November 2025 ought to review it to ensure that its terms are consistent with the provisions of the Law.

Implications for Jersey trusts and trustees

Jersey trusts are useful vehicles for succession planning and the generic descriptions for "children" or "issue" of a settlor or other family members are often used to define the beneficial class.

Under the previous legal position, the generic terms "children" or "issue" did not automatically extend to illegitimate children. If a settlor wanted to include as beneficiaries children who were "illegitimate" then the trust instrument needed to state this expressly.

The new Law effectively reverses the position. For any trust established on or after 24 November 2025, unless the trust instrument provides otherwise, all references to "children" will now be taken to mean all children, regardless of the marital status of their parents. Settlers will still have flexibility as to the composition of the beneficial class, but if the intention is to exclude particular categories of children, this exclusion must now be clearly and precisely articulated within the trust instrument.

FAQs

1. What does the 2025 Law do?

The Law abolishes the concept of illegitimacy in Jersey. From 24 November 2025, all children are treated equally in law, regardless of whether their parents were married at the time of birth.

2. Why was this reform introduced?

The change is part of Jersey's wider policy objective to eliminate historic inequalities linked to birth status and to ensure that all children have equal rights. Although succession rights had already been equalised under the Wills and Succession (Jersey) Law 1993, vestiges of the illegitimacy distinction continued to appear in other statutory and customary law provisions.

3. What other changes does the Law make?

In addition to abolishing illegitimacy, the Law modernises civil status processes.

Key reforms include:

- recognition of posthumous paternity,
 - the ability to correct historical civil status records, and
 - more inclusive rules for registering births.
- The Law also states that a parent's marital status cannot be used to determine a person's legal status or family relationships.

4. Are there any exceptions or savings provisions?

Yes. The abolition does not apply to certain limited areas of customary law—such as hereditary titles, coats of arms and manorial rights—where birth distinctions may still be relevant. Importantly, the change does not apply retrospectively to trusts or documents (other than wills) executed before 24 November 2025. Wills, which “speak from the date of death,” should be reviewed to ensure they align with the new law.

5. What are the implications for Jersey trusts?

For trusts established on or after 24 November 2025, references to “children” or “issue” will, unless expressly stated otherwise, include all children, irrespective of the parents' marital status. Previously, illegitimate children had to be expressly included. Settlers now need to be clear and specific if they intend to exclude any category of children from the beneficial class.

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