

Changes to the Probate (Jersey) Law 1998

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The Probate (Amendment) (Jersey) Law 2023 came into force on 27 October 2023 and has introduced some flexibility for the management of a deceased person's movable (personal) property.

Small estates exemption

The main change is to the exception for small estates. Under the previous regime it was necessary for someone to apply a grant of probate/letters of administration (a "grant") if a deceased person died leaving any movable property in Jersey of any value whatsoever. Furthermore, anyone who took possession of, or in any way administered, a deceased person's Jersey movable property without a grant could potentially face prosecution for the criminal offence of intermeddling. There was only one relatively limited exception to this strict requirement; a grant was optional if the deceased person was not domiciled in Jersey at the time of their death and the gross value of the deceased person's property in Jersey was under £10,000.

The new Law has expanded the scope of this so-called "small estates exemption" considerably. It now applies whether or not the person was domiciled in Jersey at the time of their death and the threshold has been increased from £10,000 to £30,000. These changes should allow, for example, a bank to release cash from a deceased person's account to one of the deceased's heirs so that the latter could pay for funeral or other important expenses with greater ease.

Additional protection for members of the care sector and undertakers

Some of the other amendments have been introduced in response to concerns expressed by members of the care sector and undertakers in the past.

The new Law now permits someone who finds himself/herself holding the movable property of a deceased person in certain circumstances, for example a manager of a nursing home or a nurse at a hospital, to be able to hand over that property to a family member or friend of the deceased without committing the criminal offence of intermeddling provided that certain formalities are observed.

In a similar fashion, the new Law provides that a funeral director can authorise, without the need for a grant, the deceased person to be buried/cremated with an item or items of their movable property up to £1,000 in value.

Conclusion

It should be noted that the amendments do not remove the need for the person managing the estate of a deceased person to apply for, and receive, a grant. Nevertheless, by introducing some "common sense" exceptions to that general requirement, the new Law is to be welcomed. It should make the management and administration of a large number of estates much simpler and straightforward in the future.



FIND US

Carey Olsen Jersey LLP
47 Esplanade
St Helier
Jersey JE1 0BD
Channel Islands

T +44 (0)1534 888900
E jerseyco@careyolsen.com



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Visit our trusts and private wealth team at careyolsen.com



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