



Probate and estate
administration
for non-Guernsey
domiciliaries

CAREY OLSEN

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Locations

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Offshore Laws

BERMUDA
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About Carey Olsen

Carey Olsen is a leading offshore law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey from a network of nine international offices.

We are a full service law firm advising on banking and finance, corporate and M&A, investment funds and private equity, trusts and private wealth, dispute resolution, insolvency and property law. For further information please visit careyolsen.com.

Our probate and estate administration clients

Through our executorship company, Carey Olsen Client Services (Guernsey) Limited, we provide a professional estate administration service for family members, individuals, lawyers or other professionals who are acting as executors or administrators who are heirs of a deceased person's estate.

Why do I need a Guernsey Grant of Probate or administration?

Guernsey is an independent legal jurisdiction for estate administration purposes. When a person dies leaving assets in Guernsey, it is likely their personal representative will be required to obtain a Guernsey Grant of Probate or administration in order to receive the Guernsey assets. If the value of the estate is under £10,000, the local institution may be willing (but is not obliged) to release the funds to the personal representative in return for an indemnity. It is not possible to "reseal" a grant from the UK or a foreign jurisdiction, however, the foreign grant is used in support of the Guernsey application.

The Guernsey Ecclesiastical Court issues a grant of probate if the deceased left a Will or a Grant of Administration if they died intestate.

Exception

If assets are held in joint names, the assets will usually pass to the surviving account holder on production of the death certificate.

Will or intestacy

If the deceased died without making a Will (or his Will does not cover the Guernsey assets), he is said to have died "intestate" (or intestate as to Guernsey assets). Under these circumstances, Guernsey law determines who is entitled to administer the Guernsey estate.

What is an executor/administrator?

An executor is the personal representative of the deceased who is named in the Will. An Administrator is the person appointed as the personal representative in an intestate estate or where the named executor in a Will does not take out probate. An application for a grant for the estate of a non-Guernsey domiciled individual requires a personal appearance at the Ecclesiastical Court by the executor or administrator or their duly appointed attorney. In the event the executor or administrator is not resident in Guernsey, the Ecclesiastical Court can prepare a postal oath to be sworn outside of the Island before a notary public or someone authorised to administer oaths. Carey Olsen Client Services (Guernsey) Limited is our in-house executorship company which provides an independent estate administration service including acting as agent for a non-Guernsey executor or administrator.

Why is domicile so important?

The deceased's domicile will usually be the place where they lived and intended to remain indefinitely for the rest of their life. This information is important as the rights to inherit movable assets are usually governed by the provisions of the law of the deceased's last domicile. Domicile may also have an effect on the taxation of the estate. In cases of doubt, expert legal and tax advice may need to be obtained.

What documents are required?

- **A death certificate**
A certified copy of the death certificate with English translation if appropriate.
- **Guernsey Will**
The original Guernsey Will (if any).
- **Grant of Probate or Letters of Administration**
A court sealed and certified copy of the Grant of Probate and Will or Letters of Administration from the jurisdiction in which the deceased was domiciled.
- **Details of assets**
Confirmation of the gross sterling value of the Guernsey assets (or in the event there is a Guernsey Will and this deals with the worldwide estate, details of these assets).

Confirmation from at least one local institution which holds the deceased's assets that a Guernsey grant is required and the value of the assets by them.
- **Letter of engagement and terms of business**
A letter of engagement which incorporates our terms of business signed by the personal representatives, beneficiaries or heirs.
- **Client identification**
A certified copy of passport(s) and utility bill(s) or bank statement(s) (of no more than 3 months old) confirming the residential address(es) of the proposed personal representative(s).

What documents may be required?

- **Affidavit on intestacy**
An affidavit in the form required by the Ecclesiastical Court signed by a legal adviser in the jurisdiction of the deceased domicile at date of death confirming who is entitled to share in the succession under the law of the deceased's last domicile.
- **Affidavit as to due execution**
This will be required on the first proving of the Will in Guernsey in the event the Will was not signed in Guernsey to prove that the Will was duly executed in accordance with the relevant law and is, therefore, capable of being admitted to proof in Guernsey.
- **Affidavit of handwriting**
This will be required as evidence that a holographic Will presented for probate is in the handwriting of the deceased. If the affidavit is provided by the deceased's professional adviser, only one affidavit is required, otherwise the Ecclesiastical Court will require two affidavits.
- **Translations**
The professional translation of documents may be required.
- **Other documents and information**
Depending on the circumstances other documents and information may be required.

Costs

There are no death duties, estate duties or inheritance taxes, capital gains taxes or value added taxes on foreign domiciled estates. The Ecclesiastical Court charges its fees based on the value of the estate. The value of the estate is always taken as the gross value (i.e. before deduction of debts and liabilities) of worldwide assets on a first proving in Guernsey but of Guernsey assets only on a second or subsequent proving or if there is a Will dealing only with Guernsey assets.

The value is always taken at the date of death. The deceased's assets to be valued for these purposes are his movable assets. Real estate situate outside of the Bailiwick of Guernsey may be included in the unlikely event of there not being a previous foreign grant. Real estate situate in the Bailiwick of Guernsey is not included in the value of the estate.

By way of guidance the Ecclesiastical Court charges its fees on a sliding scale where for an estate of £20,000 a fee of £59 will be charged, for an estate of £80,000 a fee of £155 will be charged and for amounts over £80,000 add for each additional £10,000 or part thereof, £35. There are small charges for certified copies, powers of attorney, oaths, deeds of renunciation, the details of which can be provided on request.

Carey Olsen's fees and those of Carey Olsen Client Services (Guernsey) Limited are based principally on time costing and complexity and we would be happy to provide estimates depending on the circumstances of each particular case.



Key contacts

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