



## Personal Law

# Jargon Buster

### Will Terms:

#### Will

The legal document in which a person records by whom and to whom their property is to be distributed to after their death.

#### Codicil

An additional document made after the will which modifies or revokes part of the will without having to make an entire new will.

#### Executor

Person entitled to administer the Estate because they are named by the deceased in their will to carry out their instructions. Their authority to act is validated when the will is proven in court (when probate is granted).

#### Executrix

A female Executor.

#### Executor Nominate

The person(s) named in the will as Executor(s).

#### Alternate Executor

The second person named in the will as Executor should the first Executor pre-decease the testator or be unable (or unwilling) to fulfil their duties.

#### Executor Dative

An Executor appointed by the court not named in the will. This happens should both the Executor Nominate and Alternate Executor be unable or unwilling to fulfil their duties.

#### Trust/will Trust

A legal arrangement set out in the will which is activated on the death of the individual. The will appoints a trustee to whom the assets are transferred. This trustee oversees these assets until the trust expires. An example would be a sum of money (asset) transferred to the mother (trustee) to hold on trust until the child is of age (trust expires).

#### Letter of wishes

These are non-binding wishes expressed outside of the will document itself. These can include further directions for the Executor or beneficiaries as well as specific funeral wishes such as a choice of reading or music.

#### Testator/Testatrix

The person whose will it is and whose assets form the subject of the will.

#### Estate Administration

The duty of the executor(s) which has 3 stages: Firstly, collecting all of the deceased's assets. Secondly, paying off all outstanding debts such as utility bills and funeral costs. Thirdly, distributing the remaining net estate in accordance with the will.

#### Beneficiary

A person who inherits from the Estate of the deceased. This can be either only under the provisions of the will or under the will as well as by operation of law.

#### Heirs

A synonym for beneficiary.

#### Estate

Everything owned by the deceased in real estates and other assets such as bank accounts, jewellery, collections, insurance policies, bonds and shares.

#### Movable property

All assets and possessions which are not immovable. This includes money in bank accounts, bonds, shares, valuable collections, cash, jewellery and other possessions.

#### Will of movable estate

The will governing your movable property after your death.

#### Immovable property

All property in or to do with the land such as a field, house or flat.

#### Will of immovable estate

The will governing your immovable property after your death.

#### Bequest

Synonym for inheritance or gift left to someone in a will.

#### Devise

Verb used in wills for leaving immovable property to someone.

#### Bequeath

Verb used in wills for leaving movable property to someone.

#### Pecuniary legacy

A specified sum of money from the estate as a whole left to someone or a charity in a will.

#### Specific bequest

A specific item left to someone in a will such as a ring, watch or specific share of a bank account.

### **Issue/remoter issue**

Issue refers to the children of the person named. Remoter issue refers to descendants of those children one generation down and so on.

### **Guardian**

The person responsible for the well-being of a child should the parent not be able to look after them.

### **Tutelle**

The formal mechanism required by Jersey law to safeguard the financial interests of a minor who inherits immovable or movable property. The purpose of a tutelle is to act in the best interests of the minor and preserve their assets. This is why all seven members (6 electeurs and 1 Tuteur) are jointly and severally liable for any losses.

### **Testamentary powers/testamentary freedom**

The limits under the law as to what the person making their will is allowed to do.

### **Witnesses**

Two people who are not beneficiaries under the will who are present at the signing of the will. They sign the will to acknowledge that the maker was not unduly influenced and understood the consequences of their will.

### **Revocation clause**

A clause in the will cancelling previous wills by stating it replaces them. This clause can be general, meaning all previous wills are revoked, or specific to certain assets or jurisdictions. For example a revocation clause only cancelling previous wills relating to the Jersey immovable estate.

### **Légitime**

Those parts of the estate the spouse/civil partner and children have a legal entitlement to. If they are left less than this entitlement, they can make a claim against the estate via the executor.

### **Forced heirship**

The legal entitlement to a share of the estate called légitime by the spouse/civil partner and children.

### **Partie Disponible**

Part of the Estate the maker of the will may dispose of as he/she wishes. The part unaffected by any claims under the forced heirship rights of légitime.

### **Entitlement**

That to which a person has a right.

### **Joint ownership**

A form of shared ownership. When one owner dies, ownership passes automatically (meaning by operation of law) to the remaining living owners. This means the deceased's share does not form part of their estate and does not pass to his or her heirs

### **Ownership in common**

In absence of any intention expressed to the contrary, this is the presumption. The share of the owner in common forms part of the deceased's estate and passes to his heirs.

### **Undivided shares**

Same meaning as ownership in common.

### **Assets/joint assets**

Assets or property owned between two or more people.

### **Residue**

That which remains of the Estate once any outstanding bills and debts have been paid off and any pecuniary legacies have been paid out

### **Property**

That which is the property of someone and therefore owned by them.

### **Tenants in common**

Each tenant owns a separate share in the property. On the death of one, their share forms part of their estate and passes to their heirs.

### **Household effects / household contents**

Contents, fixtures and fittings of the property occupied.

### **Avancement de succession**

Jersey French for anticipation or advance of inheritance. Where someone is given a gift of significant value during the lifetime of the person he will inherit from. An example would be a father (the donor) giving a substantial gift to one of his three children (heirs) during his lifetime. Often referred to as significant lifetime gifts.

### **Rapport a la masse**

This is relevant when one of the heirs has received one or several significant gifts from the deceased during his lifetime. For example, a father helping his son buy his flat. Such gifts are considered to be avancement de succession, or advances of inheritance. The other heirs can demand that the value of such gifts be thrown back into the 'pot' of inheritance for the purpose of calculating their respective shares of the Estate. This is called 'Rapport à la masse'.

### **Life enjoyment**

The right to enjoy and live in the property of another for the duration of one's life as if it were one's own.

### **Share transfer property**

Buying a share transfer property means purchasing a set of shares in a limited liability company which owns the property (e.g. a block of flats) allowing you (with residential qualifications) to occupy a flat within the property. The owner of shares in a company does not own "immovable property".

### **Freehold property**

Right of ownership over a piece of land or property such as a house or flat. The owner of a freehold property is said to own "immovable property" and should have a separate will do deal with that.

### **Dower or douaire**

Right of enjoyment which a widow has over one third of the immovable estate of their deceased spouse.

### **Testate**

When a person died leaving a will.

### **Intestate**

When a person died leaving no will.

### **Debts of the estate**

All outstanding bills and debts such as utility bills, funeral expenses or income tax liability which must be paid from the Estate before it can be distributed.

### **Testamentary expenses**

Costs incurred while performing the duties of executor including obtaining probate, collecting the estate and stamp duty.

### Testamentary Capacity

To have the mental capacity to satisfy the legal requirements for the ability to make or change your will. Relevant factors include being of sound mind and memory and understanding the implications of your decision.

### Funeral wishes

These are non-binding wishes expressed in the will or annexed as a letter of wishes. They can be limited to a preference for cremation or burial but may include funeral preferences such as hymns, readings or choice of music.

### Predecease

To die before the maker of the will (testator).

### Survive

Those persons named in the will who are still alive when it comes into effect.

### Equal shares

Divided equally between the persons named.

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