



 **VIBERTS**

JERSEY DOMICILED
PROBATE & STAMP DUTY

Welcome

Viberts' Personal Law Department is one of the Island's leading providers of wills and probate services. Our team has a wealth of experience and our clients can be confident in the knowledge that we will provide a sensitive and effective service, giving peace of mind. We focus on meeting the needs of our clients. People matter to us.

About this probate brochure

This brochure is meant to act as a guide to understanding how Jersey Law deals with your assets when you pass away, as well as providing you with guidance on estate administration and stamp duty.

We offer a tailored approach to each client's requirements. As a result of this, we recommend that you read the information enclosed as a starting point and then contact us to discuss your circumstances and how we can help you find the right solution.

If you have any questions, however small, about managing your own or a loved ones' affairs then please call our personal law team for an initial 30 minute free consultation on:

 +44 (0) 1534 632205





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Probate and estate administration

Viberts offer a professional executorship service through our in-house executor company, Viberts Executors Limited, for both individuals and professionals, both locally and offshore.

For further information please refer to our Professional Executorship Services section of this brochure.

Executors and Administrators

Under Jersey law it is only necessary to appoint an executor or administrator to deal with a deceased's movable estate (personal estate). This includes bank accounts, investments, jewellery, share transfer properties and cars etc. Immovable estate (or real estate) is not dealt with by an executor; the will of immovable estate is instead registered in the Public Registry, giving title of the property to the devisees. Immovable estate includes freehold property, including everything built on land, leases over 9 years and the benefit of certain mortgages.

When a person dies, their estate is categorised as either testate, if they have made a will, or intestate if they have not.

If a will is made, it is usual for an executor to be named in it to administer the estate when the testator (person making the will) dies. If the deceased did not make a will, an administrator is appointed to administer the estate by the court.

The job of the executor and administrator is identical. They both have an obligation to gather in all the deceased's movable assets, pay any debts and funeral expenses and then distribute the remainder of the estate in accordance with the provisions of the will, or in the absence of a will, in accordance with the law.

Jersey domicile probate

Probate is the permission of the court, giving the executor or administrator power to carry out their administrative duties. If the deceased died domiciled in Jersey, probate will be required here. If however the deceased's assets are all held jointly with another person, then probate will not be required.

In Jersey, the law does not set a limit for when probate is required and it is therefore necessary to apply for probate, regardless of the value of the Jersey estate. Probate must be obtained before the executor or the administrator can administer the Jersey estate. If the deceased made a will then the Jersey court will issue a Grant of Probate, or Letters of Administration if the deceased died intestate.

It is not possible to use a grant of probate obtained in a foreign jurisdiction and a Jersey Grant must be obtained. Under Jersey law, it is possible for claims to be made against the estate within a year and a day of the date of death of the deceased and it is therefore important for executors and administrators to be mindful not to pay out all bequests until this period has passed.

It is also important for an executor or administrator to ascertain whether probate is required before they begin to administer the estate of the deceased. If assets are moved or distributed before the correct process has been undertaken, or by someone who is not the executor or administrator they could be accused of inter-meddling in the estate, which is a criminal offence under Jersey law.

Registering a will of Jersey immovable estate

In order to gain title to immovable property in Jersey it is necessary for the will of immovable estate, which gifts the property, to be registered at the Jersey Public Registry.

In contrast to movable property, an executor is not appointed to deal with the immovable property of a deceased and it is therefore the devisees of the immovable property who are responsible for registering the will of immovable estate and obtaining title to it.

If there is only one will covering both movable and immovable estate, then it is necessary for the executor to obtain probate in Jersey first and obtain an authenticated court copy of the will. The authenticated court copy will can then be registered at the Public Registry.

We offer assistance in registering wills of immovable estate and can also offer advice regarding stamp duty, the sale of the property or inheritance of immovable property under intestacy.

Stamp duty and how this may affect your estate

Jersey does not have inheritance tax however stamp duty is payable on the value of the deceased's assets. This is calculated as at the date of death and is payable on the inheritance of movable and immovable estate. Different stamp duty regimes apply to each.

If assets are held in another jurisdiction it is important to remember that probate may need to be obtained in that jurisdiction. Inheritance tax or stamp duty may therefore also be payable in that jurisdiction.

Movable stamp duty

Movable assets include jewellery, furniture, bank accounts, shares (including those that relate to share transfer properties) and investments.

For the purpose of calculating stamp duty on your net movable assets at death, the value of the movable assets is rounded up to the nearest £10,000. Stamp duty is paid when the executor or administrator of the estate applies for the Grant of Probate or Letters of Administration.

The stamp duty is calculated as follows:

Does not exceed £10,000	No stamp duty payable
Does not exceed £100,000	£50 per £10,000 or part of £10,000
Exceeds £100,000 but does not exceed £13,360,000	£500 in respect of the first £100,000 plus £75 for each additional £10,000 or part of £10,000
Exceeds £13,360,000	Stamp duty is capped at £100,000

An additional charge of £80 is payable in the case of all professional applications.

Immovable stamp duty

Immovable assets include land and everything built on it, leases for over 9 years, flying freehold property and the benefit of certain mortgages. Stamp duty is payable on the registration of a will of immovable estate in the Public Registry and is calculated on a sliding scale, based upon the market value of the property, as at the date of death. The calculation is essentially the same as the stamp duty payable when buying immovable property, and is as follows:

Does not exceed £50,000	0.5% with minimum fee of £12
Exceeds £50,000 but does not exceed £300,000	£250 + 1.5% of the value in excess of £50,000
Exceeds £300,000 but does not exceed £500,000	£4,000 + 2% of the value in excess of £300,000
Exceeds £500,000 but does not exceed £700,000	£8,000 + 2.5% of the value in excess of £500,000
Exceeds £700,000 but does not exceed £1,000,000	£13,000 + 3% of the value in excess of £700,000
Exceeds £1,000,000 but does not exceed £1,500,000	£22,000 + 4% of the value in excess of £1,000,000
Exceeds £1,500,000 but does not exceed £2,000,000	£42,000 + 5% of the value in excess of £1,500,000
Exceeds £2,000,000 but does not exceed £3,000,000	£67,000 + 6% of the value in excess of £2,000,000
Exceeds £3,000,000	£127,000 + 7% of the value in excess of £3,000,000

An additional charge of £80 is payable in the case of all professional applications.

If you are unsure of the stamp duty that may be payable on your estate please refer to the stamp duty calculator on our website which will calculate this for you, or call us.

Certain exemptions apply to the stamp duty payable on immovable property where the property in question is the matrimonial home (not owned jointly), or where the will leaves the immovable property to those who would have inherited had there been no will (an intestacy), in the same shares as they would have inherited on an intestacy.

For example, no stamp duty is payable in the case of widow, widower or single mother, leaving their entire immovable property to their children on death. However, if a parent left property to an individual other than their spouse and their children in their will, or in shares different to how their spouse and children would otherwise have inherited under an intestacy, stamp duty would be payable. Furthermore, there would be no benefit in transferring the properties in question to the children prior to death, as stamp duty would still apply to such transactions.

Occasionally, the situation arises where those who inherit, especially under a will of immovable estate, have insufficient funds immediately available to pay the stamp duty for the registration of the will. In these circumstances it may be possible for the executor, administrator or the devisee to obtain a loan.

A legitimate way of avoiding stamp duty on death is to hold assets jointly for the survivor with another person. It is usual for couples to hold assets in this way. Stamp duty and probate would only be a consideration on the death of the last joint owner for those assets held in joint names. There are however some instances where this is not possible, for example with regard to ownership of motor vehicles and certain investments, or indeed desirable, due to prevailing circumstances, including the nature of the relationship between parties.

For all the reasons set out above, it is important that consideration is given to the impact your wishes, as expressed in your wills, may have on the amount of stamp duty payable on your death. The reality is that with some fairly straightforward estate planning, the saving on stamp duty can be considerable, leaving your loved ones financially better off. Viberts has expertise in this area and would be delighted to assist you.



Long Term Care scheme

Jersey residents who are likely to need long-term care can obtain financial support through the Long Term Care scheme, for care provided in their home or in a care home. Long term care is, depending upon your circumstances, available to those who have lived in Jersey for a combined, or continuous, period of 10 years before they can apply.

The level of care required by each person is assessed by a health care professional and is then categorised into one of four levels of care; four being the highest level of care.

The long term care scheme offers a “care cap”, meaning that those with assets over £419,000 (includes both movable and immovable assets) will only be required to pay the first £54,480 of their care fees. After this time the scheme will cover the costs of the care but they may still have to pay towards non-care costs. The care costs covered by the scheme will vary depending upon the level of care required.

In some cases the person requiring care may own immovable property which is valued over £419,000 but does not have any cash assets to pay for their care. In these circumstances the cost of the care will still need to be paid and the long term care scheme can offer a loan against the value of the property. This loan is paid back after death, or the death of their spouse or civil partner death if they are still living at home. The loan is also repayable if the property is sold or inherited.

Importantly, if an individual decides to dispose of their assets or home by gifting them to another person, these assets may still be taken into account. The long term care scheme will assess a person on all their assets, including any gifts made within the last 10 years, which are over £5,000. The scheme will also take into account the transfer of property (where the person has continued to live in it, or receive rent from it). For transfers of property there is no time limit on how far back in time the scheme can look.

Long term care is not only available to the elderly, but for most it will not be a consideration until much later on in life. Long term care is, however, something that should be considered as part of any estate planning. Viberts would be delighted to provide advice in relation to this.



Professional executorship services

In some cases the executor appointed in a will or the person entitled to administer the estate may not feel able or wish to do so, particularly if they do not live in Jersey. Other situations may arise where the executor appointed in the will has died or the deceased's affairs are complex. In such cases Viberts is pleased to offer its professional executorship services. Viberts Executors Limited ("VEL"), our in-house executor company, has a wealth of experience in providing such services. By appointing Viberts Executors Limited you can be assured that the estate will be dealt with in a cost effective, timely and professional manner by our experts, strictly in accordance with the wishes of the deceased or the rules on intestacy, as appropriate. Viberts personal law team is also pleased to provide legal advice to those acting in the capacity of executor where there is disagreement, or complex issues arise.

In Jersey it is necessary for a probate application to be made in person and therefore the named executor in a will must either travel to Jersey to make the probate application in person, or sign a power of attorney giving a local lawyer in Jersey the power to make the application in their place. This avoids the expense and inconvenience of travelling to Jersey which could prove costly to the estate.

If a power of attorney is signed in favour of VEL then the probate application will be made by VEL on behalf of the named executor or administrator and VEL will be appointed on the Jersey Grant of Probate as the Attorney Executor. This gives VEL the power to administer the estate in Jersey.

If the estate is straightforward, our fees are very cost effective and start at approximately £800.



If you need us

If you have any questions, however small, about managing your own or a loved ones' affairs then please call our personal law team for a free initial consultation.

We place great importance on the establishment of a good relationship between client and lawyer. We will be here when you need us. Contact us:

 +44 (0) 1534 632205

 personal@viberts.com

 www.viberts.com



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Contact us:

 **Viberts**

Viberts House, PO Box 737, Don Street, St. Helier, Jersey JE4 8ZQ

 +44 (0) 1534 888666  +44 (0) 1534 888555

 personal@viberts.com

Visit us:

 www.viberts.com



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