

 **VIBERTS**

NON JERSEY DOMICILED  
WILLS & SUCCESSION PLANNING

# 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 wills & succession planning brochure

This brochure is meant to act as a guide to understanding why you should make a Jersey will to cover your Jersey assets, as well as providing you with guidance on the options available to you and your family when it comes to succession planning, stamp duty and who should be your executor.

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.

When it comes to succession planning, being prepared will give you peace of mind, Viberts can help you with this.

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.

Contact us:

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IN WITNESS WHEREOF, I  
do hereby declare to  
myself that I sign it willingly  
and voluntarily for the purpose  
and under no constraint or u

Testator/Testatrix

## Persons domiciled outside Jersey

Nobody likes to think about death, particularly their own. However, making preparations for your death has many advantages especially when you own assets in more than one jurisdiction.

If you are domiciled outside of Jersey but you have assets in Jersey, we would advise you to consider making a Jersey will.

## Why do I need a Jersey will?

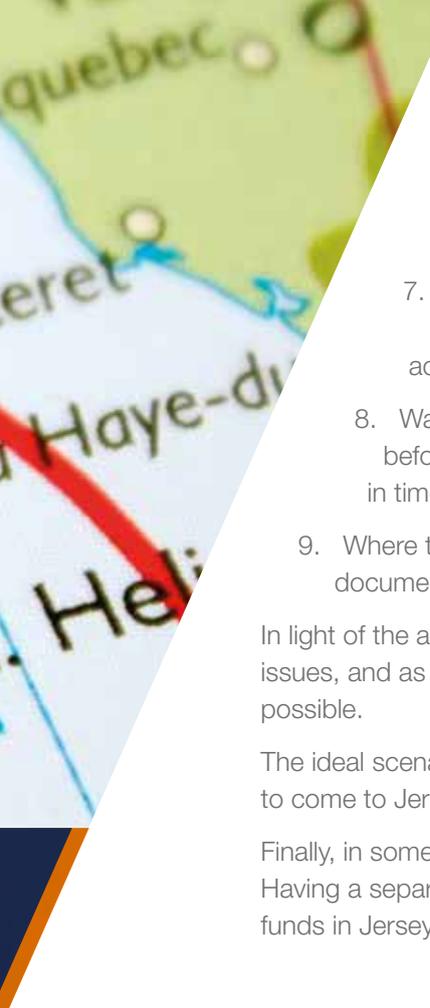
A Jersey will can be made separately from any will you have already made, or may wish to make in your place of domicile.

If you already have an existing will, which covers your worldwide assets, then making a further will to cover your Jersey assets may seem unnecessary. However, the important benefit to making a separate Jersey will is that you will ensure that your Jersey estate can be dealt with as quickly and efficiently as possible by your executor, without having to wait for your will to first be proved in your place of domicile.

If you have only made one will to cover your worldwide assets, specific court or notarial authenticated documents will need to be acquired by your executor, together with other documents such as translations and Affidavits etc. In contrast, if a separate Jersey will has been made the only documents required will be the original Jersey will and the death certificate.

The most common difficulties we encounter with worldwide wills are as follows:

1. Not all jurisdictions have the same concept of domicile as Jersey.
2. Not all jurisdictions have the same concept of executor or administrator as Jersey.
3. In some jurisdictions it is extremely difficult to obtain sealed and certified copies of documents from courts. Frequently, we are told that such documents are not available and we have had to wait for up to two years for the documents in some cases.
4. In some cases where the will has not been validly executed in accordance with Jersey law, an affidavit of law from a lawyer practising in the place of domicile is necessary.
5. Language barriers can lead to difficulties in explaining legal concepts and additional cost in obtaining official translations.
6. Errors on documents can lead to delays and additional costs.



7. Reluctance of lawyers in the place of domicile and/or beneficiaries to accept the advice given with regard to the documents required can lead to delays and additional costs.
8. Waiting for probate or letters of administration to be granted in the place of domicile, before probate procedures can take place in Jersey, is not always convenient and results in time delays.
9. Where the will covers assets in many jurisdictions it can take some time to obtain official documentation from the courts in the place of domicile.

In light of the above, making a separate will to cover your Jersey assets will avoid these potential issues, and as a result will ensure that obtaining probate in Jersey is as quick and cost effective as possible.

The ideal scenario would be to appoint a Jersey executor, making it unnecessary for the executor to come to Jersey to make a personal application for probate or to execute a power of attorney.

Finally, in some jurisdictions there are hefty inheritance taxes which must be paid in advance. Having a separate Jersey will has the benefit of it being possible for beneficiaries to gain access to funds in Jersey to pay those taxes, without having to obtain probate in the place of domicile first.

## Signing and witnessing wills

As it is essential that wills are in the correct form, and properly dated and witnessed, you should always consult a lawyer to advise on and prepare your wills. Please note that there are no pre-printed will forms suitable for use in Jersey.

Once you have made a will you may change it as often as you wish. You can even cancel the entire document if you so decide. We do however advise that wills should be reviewed every five years to ensure they continue to meet your wishes, or sooner if your own circumstances change significantly (e.g. you become married, divorced, have a baby or become a grandparent).

## On your death

Immovable wills are not effective until they have been registered in the Public Registry, or a Grant of Probate has been obtained in the case of a will of movable estate. When taking these steps a stamp duty is payable to the States of Jersey and the sums involved can be significant. Viberts can assist with the necessary arrangements for this expenditure and can advise as to whether any special exemptions may be applied.

# Stamp duty and how this may affect your will

Jersey law categorises assets into movable and immovable, and different stamp duty regimes apply to each. Movable assets include jewellery, furniture, bank accounts, shares (including those that relate to share transfer properties) and investments.

## Movable stamp duty

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 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

Occasionally, persons domiciled outside of the Jersey own immovable property in Jersey. 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.

Certain exemptions apply to the stamp duty payable on immovable property 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, 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, it would not be possible to transfer the properties in question to the children prior to death, as Jersey has strict rules in respect residential status. These rules determine where you can work and live in Jersey, as well as determining when you can own Jersey share transfer and immovable property.

Depending upon your circumstances, you must have lived in Jersey for a combined, or continuous, period of 10 years before you can own property in Jersey, unless the property is inherited.

A legitimate way of avoiding stamp duty on death is to hold assets jointly for the survivor with another. It is not unusual for couples to hold assets in this way. Stamp duty would only be a consideration on the death of the last joint owner. There are however some instances where this is not possible, for example with 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 offers expertise in this area and would be delighted to assist you.

## 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 VEL 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 where 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.



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