



Jersey

## PROBATE (AMENDMENT) (JERSEY) LAW 202-

### Contents

---

#### Article

1	Probate (Jersey) Law 1998 amended .....	3
2	Article 1 (interpretation) amended .....	3
3	Article 11 (grant to a trust corporation) amended .....	3
4	Article 19 (necessity for production of grant) amended .....	4
5	Article 21 (protection for person releasing movable estate without grant) amended .....	6
6	Article 23 (penalty for intermeddling) amended .....	7
7	Articles 32A, 32B and 32C inserted .....	7
8	Citation and commencement .....	7





Jersey

## PROBATE (AMENDMENT) (JERSEY) LAW 202-

A LAW to amend the Probate (Jersey) Law 1998.

---

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

---

### 1 Probate (Jersey) Law 1998 amended

This Law amends the Probate (Jersey) Law 1998.

### 2 Article 1 (interpretation) amended

In Article 1(1) –

- (a) after the definition “executor nominate” there is inserted –  
“ “funeral director” means a person in Jersey having charge of the burial or cremation of a deceased person;”;
- (b) after the definition “grant” there is inserted –  
“ “holder” means a person in Jersey who holds any movable estate of a deceased person;”;
- (c) after the definition “Inferior Number” there is inserted –  
“ “Minister” means the Minister for Health and Social Services;”;
- (d) after the definition “prescribed” there is inserted –  
“ “set” means set by Order of the Minister;”.

### 3 Article 11 (grant to a trust corporation) amended

After Article 11(3) there is inserted –

- “(3A) Probate or administration is not to be granted to an association or company other than a trust corporation.”.

#### 4 Article 19 (necessity for production of grant) amended

For Article 19 there is substituted –

##### **“19 Necessity for production of grant**

Subject to Articles 19A to 19E, and except as otherwise provided by any other enactment, the production of a grant is necessary to establish the right to recover or receive any part of the movable estate situated in Jersey of a deceased person.

##### **19A Exception for small estates**

- (1) A person does not need to produce a grant to a holder to establish the right to recover or receive any part of the movable estate situated in Jersey of a deceased person if the conditions in paragraph (2) are met and –
  - (a) if the deceased person dies domiciled in Jersey, the total value of the person’s worldwide movable estate does not exceed £30,000, or
  - (b) if the deceased person dies not domiciled in Jersey, the total value of the person’s movable estate in Jersey does not exceed £30,000.
- (2) The conditions are –
  - (a) the person agrees to be held accountable for the movable estate that is transferred to that person;
  - (b) the holder is reasonably satisfied that the person is entitled to receive the movable estate under the terms of the deceased person’s will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death; and
  - (c) there is no caveat in force in respect of the deceased person’s estate.

##### **19B Exception for particular holders of movable estate**

- (1) The Minister may by Order set out types of holder who may release movable estate without the production of a grant (“particular holders”).
- (2) A person applying to a particular holder must use an application form containing the set information.
- (3) A particular holder must not release the estate to the person unless –
  - (a) the particular holder is reasonably satisfied that the value of the movable estate does not exceed £30,000;
  - (b) the particular holder is reasonably satisfied that the applicant is entitled to receive the movable estate under the terms of the deceased person’s will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death;

- (c) the particular holder is reasonably satisfied that the applicant meets any other set requirement found in the application form;
- (d) in the application the applicant agrees to be held accountable for the movable estate that is released to the applicant; and
- (e) there is no caveat in force in respect of the deceased person's estate.

### **19C Exception in respect of items worn by deceased person**

- (1) This Article applies –
  - (a) to a funeral director; and
  - (b) with respect to an item or items of the deceased person's movable estate situate in Jersey that was being worn by, or was on or with, the deceased person at the time of that person's death (referred to in this Article as an "item").
- (2) A funeral director may, without production of a grant, authorise that a deceased person may be buried or cremated with an item if the funeral director is reasonably satisfied that the value of the item does not exceed £1,000.
- (3) A funeral director may, on receipt of an application in the published form, release an item to the applicant without the production of a grant if –
  - (a) the item is to be buried or cremated with the deceased person;
  - (b) the funeral director is reasonably satisfied that the applicant is entitled to receive the item under the terms of the deceased person's will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death;
  - (c) the funeral director is reasonably satisfied that the value of the item does not exceed £10,000;
  - (d) the funeral director is reasonably satisfied that the applicant meets any other set requirement contained in the application form;
  - (e) the applicant, in his or her application, agrees to be held accountable for the item; and
  - (f) there is no caveat in force in respect of the deceased person's estate.

### **19D Exception for Viscount acting as court-appointed delegate**

- (1) This Article applies if, at the time of death, the Viscount is appointed under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016 as delegate for the deceased person in respect of that person's property and affairs.
- (2) If the Viscount is the holder of the whole or a part of the deceased person's estate the Viscount may, without producing a grant, release that estate in order to –

- (a) pay to a funeral director the amount of any outstanding bill in relation to the funeral of the deceased person;
  - (b) pay to an approved care home (as defined in Article 6 of the Long-Term Care (Jersey) Law 2012) the amount of any outstanding care home fees in respect of the deceased person;
  - (c) pay any other outstanding bills of the deceased for which the Viscount considers payment should properly be made; and
  - (d) repay to the relevant provider any overpayment of benefits or pension made in respect of the deceased person.
- (3) In doing so, the Viscount must be reasonably satisfied that the total value of the deceased person's worldwide movable estate does not exceed £30,000.

### **19E Exception for bona vacantia**

A holder may release movable estate to the Receiver-General without the production of a grant if the holder cannot identify a person to whom the movable estate should be released under the terms of the deceased person's will or the laws relating to intestate succession in the country in which the deceased was domiciled at death.

### **19F No effect on any liability to account**

Nothing in Articles 19A, 19B 19C and 19D affects any liability of a person who releases any movable estate to account to any other person for that movable estate.

### **19G Offence for false statement**

A person who, in an application under Article 19A, 19B or 19C or in connection with such an application or request, makes a statement which that person knows or believes to be false in any material particular commits an offence and is liable to imprisonment for a term of 12 months and to a fine.”.

## **5 Article 21 (protection for person releasing movable estate without grant) amended**

For Article 21 there is substituted –

### **“21 Protection for person releasing movable estate without grant**

A person who, in good faith and in accordance with any of Articles 19A to 19D, releases any movable estate of a deceased person is, in respect of that release, protected and saved harmless from any action brought on behalf of the estate of the deceased person or by any beneficiary of the estate.”.

## 6 Article 23 (penalty for intermeddling) amended

In Article 23 –

- (a) for “Article 19(3)” there is substituted “any of Articles 19A to 19D”;
- (b) for “to a fine or to imprisonment for a term not exceeding 12 months or to both” there is substituted “to a fine and to imprisonment for a term of 12 months”.

## 7 Articles 32A, 32B and 32C inserted

After Article 32 there is inserted –

### “32A Orders

The Minister may by Order –

- (a) amend the monetary values in Articles 19A(1), 19B(3), 19C(2), 19C(3)(c) or 19D(3); and
- (b) set anything which must or may be set for the purposes of this Law.

### 32B Application to the Crown

- (1) This Law binds the Crown, except as provided in this Article.
- (2) Nothing in this Law prevents the Receiver-General from receiving and holding any unclaimed movable estate without a grant in accordance with law or custom.
- (3) Articles 19G and 23 do not apply to the Crown, but do apply to persons in service to the Crown.
- (4) This Law does not apply to Her Majesty in her private capacity.

### 32C Transitional provision

- (1) In this Article –
  - (a) “commencement date” means the date of commencement of the Order;
  - (b) “Order” means the initial Order made under Article 19B(1); and
  - (c) “particular holder” means a holder set by Order.
- (2) If, on the commencement date, a particular holder holds estate of a deceased person whose date of death was within the 10 years immediately preceding the commencement date, Article 19B applies as though the date of death were the commencement date.”.

## 8 Citation and commencement

This Law may be cited as the Probate (Amendment) (Jersey) Law 202- and comes into force 7 days after it is registered.