

Probate and estate administration – the differences in Guernsey and Jersey

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It is common for individuals who hold funds offshore to have assets in both Guernsey and Jersey. It is a regular assumption that the laws of both islands in respect of their probate/estate administration procedure will be identical, however, this is not the case and we have outlined some of the main differences below.

Documents needed

Guernsey

The procedure is quite different and unusual as the Guernsey Registry will draft and provide some of the necessary application documents themselves, such as the Powers of Attorney, Oaths and Affidavit, in every estate regardless of whether it is an individual or a law firm making the application.

All of the estate documents, such as the Will and death certificate, are lodged with the Court and printed on special Court paper. This leaves less room for error as the Court knows all the facts of the case when the initial application is made so they can "bottom out" any complications in advance and will request further documents/information where necessary before they draft the application documents.

The Registrar, upon providing the papers to be completed, will also confirm the stamp duty and Court fee that will be payable.

Jersey

If a Jersey law firm is dealing with the administration of an estate, then the onus is on them to draft the required application documents such as a standard form Power of Attorney, Oath and any Affidavit and should present these to the Jersey Court (once signed by the relevant parties)

when the application for the Jersey Grant of Probate is being made.

It is possible for the lawyer handling the estate to submit draft documents to the Court prior to the appointment for the Registrar to comment on and amend but the bulk should be drafted by the lawyer themselves.

If an individual is making a personal application to the Jersey Court, then the Registrar will prepare the required documents once they have been supplied with all of the relevant documentation.

Procedure

Guernsey

The Guernsey Registry has no such requirement for a personal appearance and all of the relevant documents are simply posted off to the Registrar.

Court sittings are always held on a Friday and once the completed application documents have been received by the Court, the application is heard on the next available Friday. The Guernsey Grant is then generally issued within a week.

Jersey

The Royal Court of Jersey is quite unique in that it is an absolute requirement that an application for a Grant of Probate is made in person by either the deceased's personal representative (executor or administrator) or through a Jersey Advocate.

Once the relevant person has made the necessary appearance in the Royal Court, the Jersey Grant of Probate is usually issued within 3-5 working days.

Stamp duty / Registrar's fees

Guernsey

When applying for a Guernsey Grant of Probate the registrar's fee is charged at a rate of approximately 0.35% plus disbursements for the application documents (for instance, an Oath will be charged at £20).

If Probate has not been obtained elsewhere, Guernsey Probate is calculated using the gross date of death value of the worldwide estate.

If Probate has been obtained elsewhere first, the registrar's fee is calculated using the value of the Guernsey assets only. Unlike Jersey, there is no maximum amount of stamp duty that can be

paid in Guernsey.

Jersey

When applying for a Jersey Grant of Probate stamp duty is charged on the net date of death value of the Jersey situs assets which is rounded up to the nearest £10,000 for the purposes of the calculation. The charge is 0.5% on the first £100,000 and then 0.75% thereafter. The maximum stamp duty that will ever be paid in Jersey is £100,000. There is also an £80 application fee payable in each estate.

| Court opening hours

Guernsey

The Registrar at the Guernsey Registry is contactable until 12 noon, Monday-Thursday.

Jersey

The Registrar in Jersey has normal office opening hours from 8.45am-1pm and 2pm-5pm and is available via both telephone and email.

This article first appeared in Guernsey Now.

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