

Inheritance in Guernsey

Last reviewed: March 2017

The Inheritance (Guernsey) Law, 2011 (the **Law**) was introduced on 2 April 2012. The Law removed the previous regime of forced heirship and means that you can now leave your Guernsey real estate, and if you are domiciled in Guernsey, your worldwide personal estate, to whomever you choose. This freedom is, however, subject to potential claims by any person who believes that reasonable financial provision has not been made for them under your Will.

Those who believe that reasonable financial provision has not been made for them are now entitled to apply to court to change how an estate is distributed. Such a claim can be made in respect of a Will executed after the Law came into force or where no Will has been made. The following people can make such an application:

- a spouse or civil partner;
- a former spouse or civil partner that has not remarried or formed a new civil partnership;
- any person living as if spouse or civil partner for at least two years before death;
- a child of the deceased;
- a person treated by the deceased as a child of the family; and
- any person who was being maintained by the deceased.

A claim made by a spouse or civil partner can be for such financial provision as it would be reasonable in all the circumstances for a spouse or civil partner to receive, irrespective of whether it is not needed for that person's maintenance. Any other applicant is limited to applying for reasonable financial provision for such person's maintenance.

When the court is deciding if the person making the claim has not received reasonable financial provision, they will have regard to the following:

- the current and future financial resources and needs of:
 - the applicant;
 - any other applicant; and
 - any beneficiary of the estate;
- any obligations and responsibilities that the deceased had towards any person making a claim or any beneficiary of the estate;
- the size and nature of the estate;
- any disability of any person making a claim or any beneficiary of the estate; and
- any other matter which the court considers relevant.

Any claim against the deceased's estate must be commenced within six months of the date of death.

As the Law has only fairly recently been introduced in Guernsey, it is not yet possible to know how it will be applied by the Royal Court. However, the Law reflects the system that has been in place in England and Wales since 1975 and we can look to the decisions of the courts in England and Wales for guidance.

If you were thinking about removing any beneficiary from your current Will or excluding anybody from a Will that you are going to make, please contact us to discuss the matter in more detail.

If you wish to make a Will or discuss any aspects of inheritance or estate planning, whether your estate is simple or complex, please contact our experts who can assist with preparing a Will tailored to your specific circumstances.

Contacts

A full list of contacts can be found [here](#).

This guide is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this update, please get in touch with one of your usual contacts. © 2018 MOURANT OZANNES ALL RIGHTS RESERVED