



Jersey

# **WILLS AND SUCCESSIONS (JERSEY) LAW 1993**

## **Official Consolidated Version**

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

04.960

Showing the law from 1 October 2022 to Current



Jersey

## WILLS AND SUCCESSIONS (JERSEY) LAW 1993

### Contents

#### Article

<b>PART 1</b>	<b><u>46</u></b>
PRELIMINARY	<u>46</u>
1 Interpretation .....	<u>46</u>
<b>PART 2</b>	<b><u>57</u></b>
SUCCESSION ON INTESTACY	<u>57</u>
2 <i>Représentation</i> .....	<u>57</u>
3 Right of maternal relatives in collateral succession .....	<u>68</u>
3A Right of relatives of the half blood in collateral succession .....	<u>68</u>
4 Heirs take as tenants in common .....	<u>68</u>
<b>PART 3</b>	<b><u>68</u></b>
RIGHTS OF SURVIVING SPOUSE OR SURVIVING CIVIL PARTNER AND ISSUE	<u>68</u>
RIGHT TO ENJOYMENT	<u>68</u>
5 Right on intestacy of surviving spouse or surviving civil partner to life enjoyment of matrimonial home or civil partnership home .....	<u>68</u>
5A Right of surviving spouse or civil partner to life enjoyment of matrimonial home or civil partnership home if individual dies testate (dower) .....	<u>79</u>
5B References to dower in enactments and in dispositions .....	<u>79</u>
RIGHTS TO SUCCEED	<u>810</u>
6 Devolution of immovable estate on intestacy .....	<u>810</u>
7 Devolution of movable estate .....	<u>911</u>
EXCEPTIONS	<u>1012</u>
8 Spouses residing apart .....	<u>1012</u>
8AA Civil partners residing apart .....	<u>1113</u>
<b>PART 3A</b>	<b><u>1113</u></b>
EQUALITY OF SUCCESSION RIGHTS OF LEGITIMATE AND ILLEGITIMATE ISSUE	<u>1113</u>
8A Interpretation of Part 3A .....	<u>1113</u>

8B	Application of Part 3A .....	<u>1214</u>
8C	Equality of succession rights of legitimate and illegitimate issue .....	<u>1214</u>
8D	Construction of dispositions .....	<u>1214</u>
8E	Presumptions of survivorship relating to illegitimate child .....	<u>1214</u>
8F	Amendment of customary laws .....	<u>1315</u>
8G	Construction of enactments .....	<u>1315</u>
<b>PART 4</b>		<b><u>1315</u></b>
COMMORIENTES		<u>1315</u>
9	Declaration of survivorship or simultaneous death .....	<u>1315</u>
10	Effect of declaration of simultaneous death .....	<u>1416</u>
11	Testamentary direction as to survivorship .....	<u>1517</u>
<b>PART 5</b>		<b><u>1517</u></b>
ABOLITION OF CERTAIN RULES OF CUSTOMARY LAW		<u>1517</u>
12	Abolition of <i>année de jouissance</i> .....	<u>1517</u>
13	Abolition of rule about gifts to concubines .....	<u>1517</u>
14	Abolition of right of principal heir to demand possession of movable estate .....	<u>1517</u>
14A	Abolition of <i>viduité</i> .....	<u>1517</u>
14B	Abolition of requirement of consummation in relation to dower .....	<u>1618</u>
14C	Abolition of role of gender in determining principal heir .....	<u>1618</u>
<b>PART 6</b>		<b><u>1618</u></b>
MISCELLANEOUS		<u>1618</u>
15	Costs of administration .....	<u>1618</u>
16	Dispositions and appointments revoked by divorce or dissolution of civil partnership .....	<u>1618</u>
17	Will made by a minor .....	<u>1618</u>
17A	Will signed by person other than testator .....	<u>1618</u>
17B	.....	<u>1749</u>
18	Liability of heir, devisee or legatee .....	<u>1749</u>
18A	Gamete donors .....	<u>1820</u>
19	Non-discrimination .....	<u>1820</u>
20	Rights of purchaser for value .....	<u>1820</u>
20A	Sale or donation of immovable property .....	<u>1820</u>
21	Administration of estates of persons dying before this Law came into force .....	<u>1921</u>
22	Manorial and other rights .....	<u>1921</u>
22A	Wills and Successions (Amendment No. 2) (Jersey) Law 2013: application .....	<u>1921</u>
23	Citation .....	<u>1921</u>
<b>ENDNOTES</b>		<b><u>2022</u></b>
Table of Legislation History .....		<u>2022</u>
Table of Renumbered Provisions .....		<u>2022</u>
Table of Endnote References .....		<u>2123</u>



Jersey

## WILLS AND SUCCESSIONS (JERSEY) LAW 1993

A LAW to amend the law relating to inheritance, wills of movable and immovable estate, and the administration of estates of deceased persons, to abolish certain rules of customary law and for other purposes connected therewith

Commencement [[see endnotes](#)]

---

### PART 1

#### PRELIMINARY

#### 1 Interpretation

(1) In this Law, unless the context otherwise requires –

“civil partnership home” [and](#) “matrimonial home” means a dwelling place situate in Jersey occupied as their principal residence by a person and that person’s civil partner [or spouse](#) ~~which is~~ –

- (a) [that is](#) a *bien-fonds* owned by that person or by that person and that person’s civil partner [or spouse](#) as tenants in common;
- (b) [that is](#) held under a lease for a term of years exceeding at its commencement 9 years under which that person is the tenant or that person and that person’s civil partner [or spouse](#) are the tenants; or
- (c) [that forms part of](#) a *bien-fonds* owned, or held under a lease for a term of years exceeding at its commencement 9 years, by a corporation ~~of~~ [in](#) which that person holds or that person and that person’s civil partner [or spouse](#) hold –
  - (i) all the issued and outstanding shares, or
  - (ii) a share or shares the holding of which, whether or not coupled with the grant of a lease or licence, confers an exclusive right to occupy the dwelling place;

“Court” means the Royal Court;

[“disposition” means a disposition made by](#) –

(a) a will or codicil; or

(b) an instrument executed *entre vifs* which relates to rights of succession;

“immovable estate” means immovable estate situate in Jersey;

“intestacy” includes partial intestacy and “intestate” shall be construed accordingly;

“lease” includes a sub-lease;

~~“matrimonial home” means a dwelling place situate in Jersey occupied as their principal residence by a person and that person’s spouse which is—~~

~~(a) a *bien-fonds* owned by that person or by that person and that person’s spouse as tenants in common;~~

~~(b) held under a lease for a term of years exceeding at its commencement 9 years under which that person is the tenant or that person and that person’s spouse are the tenants; or~~

~~(c) a *bien-fonds* owned, or held under a lease for a term of years exceeding at its commencement 9 years, by a corporation of which that person holds or that person and that person’s spouse hold—~~

~~(i) all the issued and outstanding shares, or~~

~~(ii) a share or shares the holding of which, whether or not coupled with the grant of a lease or licence, confers an exclusive right to occupy the dwelling place;~~

“tenant” includes a sub-tenant and a transferee of the tenant’s interest under a lease;

~~“usufruit”, in relation to ~~of~~ the matrimonial home or the civil partnership home,<sup>2</sup> includes a *usufruit* of the interest of a deceased spouse or deceased civil partner in the home where in relation to the dwelling place constituting the home the deceased spouse or deceased civil partner, and the surviving spouse or the surviving civil partner, as the case requires, were –~~

~~(a) the owners of a *bien-fonds* as tenants in common;~~

~~(b) the tenants under a lease; or~~

~~(c) the holders of a share or shares in a corporation owning the dwelling place or holding it as tenant under a lease.<sup>1</sup>~~

- (2) In this Law, any reference to a ‘child’, ‘heirs at law’, ‘issue’ or ‘relatives’, or to any description of relative, shall be construed in accordance with Article 8C, as it applies by virtue of Article 8B.<sup>2</sup>

## PART 2

### SUCCESSION ON INTESTACY

#### 2 *Représentation*

In every collateral succession on intestacy, whether to movable estate or *acquêts*, any surviving descendant of a deceased brother, sister, uncle or aunt, whether of the whole or

the half blood, ~~shall be is~~ entitled to a right of *représentation* of ~~such that~~ brother or sister or uncle or aunt, the division being *par souche*.

### 3 Right of maternal relatives in collateral succession

In every collateral succession on intestacy, whether to movable or immovable estate, the rule by which the paternal side excludes the maternal side in equality of degree is abolished.

#### 3A Right of relatives of the half blood in collateral succession

In every collateral succession on intestacy, whether to movable or immovable estate, relatives of the half blood whether consanguine or utérin will each have a half share and relatives of the whole blood will each have a whole share.

### 4 Heirs take as tenants in common

(1) — Subject to the provisions of this Law and subject to the operation of the right of *représentation*, the immovable estate as to which a person dies intestate shall devolve in equal undivided shares between the heirs at law and such heirs shall take as tenants in common (*en parts égales en indivis pour eux et leurs heirs respectifs*).

~~(2) — In every collateral succession of immovable estate, relatives of the half blood whether consanguin or utérin shall each have a half share and relatives of the whole blood shall each have a whole share.~~

## PART 3

### RIGHTS OF SURVIVING SPOUSE OR SURVIVING CIVIL PARTNER AND ISSUE<sup>3</sup>

#### RIGHT TO ENJOYMENT

#### 55 Right on intestacy of surviving spouse or surviving civil partner of surviving spouse to life enjoyment of matrimonial home or surviving civil partner to life enjoyment of civil partnership home.<sup>4</sup>

~~(1) — Unless under the provisions of Article 6 or 7 the surviving spouse or surviving civil partner is entitled absolutely to the matrimonial home or civil partnership home and subject to the provisions of Article 8, where a spouse or civil partner dies intestate as to the matrimonial home or civil partnership home, the surviving spouse or surviving civil partner shall be entitled to a usufruit of the matrimonial home or civil partnership home with the usual rights and obligations of a usufruitier.(1)~~

If an individual dies intestate as to the matrimonial home or civil partnership home, their surviving spouse or civil partner is entitled to a usufruit of that home with the usual rights and obligations of a usufruitier.

(2) Paragraph (1) does not apply if the surviving spouse or civil partner is entitled absolutely to the matrimonial home or civil partnership home under Article 6 or 7.

[(3) Despite any provision in a lease requiring consent to the transfer of the lease, consent is not required for a surviving spouse or civil partner to take transfer of the lease of the matrimonial home or civil partnership home under paragraph (1).]

~~(2) Notwithstanding any provision in a lease requiring consent to the transfer of such lease, the surviving spouse or surviving civil partner shall not require such consent to take a transfer of the lease of demised premises in pursuance of paragraph (1).~~

#### **5A Right of surviving spouse or civil partner to life enjoyment of matrimonial home or civil partnership home if individual dies testate (dower)**

(1) If an individual dies testate as to their immoveable estate, their surviving spouse or civil partner is entitled to dower on terms [akin to] a widow's customary right of dower.

(2) The variation to dower in paragraph (1) does not apply to the estate of a person who died before the 1st January 2014.

(3) Dower is an entitlement to a *usufruit* of the whole matrimonial home or civil partnership home (and no longer extends to any other part of the immoveable estate as to which the surviving spouse or civil partner dies testate).

(4) The variation in paragraph (3) does not apply to the estate of a person who dies before the commencement of the Wills and Successions (Variation of Dower) (Jersey) Amendment Law 202-.

[(5) Despite any provision in a lease requiring consent to the transfer of the lease, consent is not required for a surviving spouse or civil partner to take transfer of the lease of the matrimonial home or civil partnership home under this Article.]

#### **5B References to dower in enactments and in dispositions**

(1) In this Law (apart from Article 5A) and in any other enactment, whenever enacted, a reference to dower or *douaire*, however expressed, unless the contrary intention appears, is a reference to dower as varied by Article 5A.

(2) In a disposition executed on or after the day this Article comes into force, a reference to dower or *douaire*, however expressed, unless the contrary intention appears, is a reference to dower as varied by Article 5A(3).

(3) In dispositions executed on or after 1st January 2014, a reference to *douaire* or dower, however expressed, unless the contrary intention appears, includes the entitlement to dower of a civil partner and a widower.

## RIGHTS TO SUCCEED

### 6 Devolution of immovable estate on intestacy

- (1) ~~Subject to the provisions of Article 8, where a spouse or civil partner dies~~If an individual dies intestate as to immovable estate ~~the surviving spouse or the surviving civil partner shall be entitled~~it devolves as follows –
- (a) ~~if the individual is survived by a spouse or civil partner where there is but~~ no issue ~~of the deceased spouse or the deceased civil partner, to the~~surviving spouse or civil partner takes the whole of the immovable estate;
- (b) ~~if the individual is survived by a spouse or civil partner and where the deceased spouse or the deceased civil partner leaves~~ issue, ~~to an~~ equal shares ~~of the immoveable estate are taken by~~ – with each of the surviving children of the deceased spouse or the deceased civil partner and each child who has predeceased the deceased spouse or the deceased civil partner leaving issue surviving the deceased spouse or the deceased civil partner.<sup>5</sup>
- (i) the surviving spouse or civil partner,
- (ii) a child of the individual who survives the individual, and
- (iii) a child who has predeceased the individual and leaves issue who survive the individual.
- (2) For the purposes of paragraph (1)(b)(iii), the issue of a deceased child shall take the deceased child's share by *représentation*.
- (3) ~~Where~~If a spouse or civil partner~~an individual~~ dies intestate as to immovable estate consisting of the matrimonial home or civil partnership home, ~~their~~ surviving spouse or ~~the surviving~~ civil partner ~~shall is~~ not be entitled to dower, ~~or viduité in any immovable estate as to which the deceased spouse or the deceased civil partner died intestate.~~<sup>6</sup>

#### ~~6A~~ Extension of right in nature of dower to surviving spouses and surviving civil partners<sup>7</sup>

~~Where a civil partner or in the case of a marriage by persons of the same sex, a spouse, dies testate as to immovable estate, his or her civil partner or spouse, as the case may be, shall have a right of usufruit in that immovable estate to the same extent and upon the same terms as a widow has by virtue of her right of dower in the immovable estate as to which her husband dies testate.~~

#### ~~6B~~ Extension of right in nature of dower to widowers<sup>8</sup>

~~Where a wife dies testate as to immovable estate, the widower shall have a right of usufruit in that immovable estate to the same extent and upon the same terms as a widow has by virtue of her right of dower in the immovable estate as to which her husband dies testate.~~



**6C—References to dower in enactments and in dispositions<sup>9</sup>**

- (1) ~~In this Law (apart from Articles 6A and 6B) and in any other enactment, whenever enacted, a reference to *douaire* or dower, however expressed, shall be taken to include, unless the contrary intention appears, a reference to the right of *usufruit* conferred by Article 6A or 6B.~~
- (2) ~~In any disposition executed after this Article came into force, a reference to *douaire* or dower, however expressed, shall be taken to include, unless the contrary intention appears, a reference to the right of *usufruit* conferred by Article 6A or 6B.~~

**7 Devolution of movable estate**

- (1) Subject to the provisions of Article 8 ~~and 8AA~~, where a spouse or civil partner dies intestate as to movable estate it shall devolve as follows –
- (a) where the deceased spouse or the deceased civil partner leaves a surviving spouse or a surviving civil partner, as the case may be, but no issue, the surviving spouse or the surviving civil partner, shall take the whole of the net movable estate;
  - (b) where the deceased spouse or the deceased civil partner leaves a surviving spouse or a surviving civil partner and issue, the surviving spouse or the surviving civil partner, as the case may be, shall be entitled to –
    - (i) the household effects,
    - (ii) other movable estate to a value of £30,000, and
    - (iii) one-half of the rest of the net movable estate,and the issue shall take the other half of the rest of the net movable estate.<sup>10</sup>
- (2) Subject to the provisions of Article 8, where a person dies testate as to movable estate and is survived by –
- (a) a spouse or civil partner but no issue, the surviving spouse or surviving civil partner, as the case may be, shall be entitled to claim as *légitime* –
    - (i) the household effects, and
    - (ii) two-thirds of the rest of the net movable estate;
  - (b) a spouse or civil partner and issue –
    - (i) the surviving spouse or surviving civil partner, as the case may be, shall be entitled to claim as *légitime* the household effects and one-third of the rest of the net movable estate, and
    - (ii) the issue shall be entitled to claim as *légitime* one-third of the rest of the net movable estate;
  - (c) issue but no spouse or civil partner, the issue shall be entitled to claim as *légitime* two-thirds of the net movable estate.<sup>11</sup>
- (3) For the purposes of this Article, the division of movable estate among issue shall be *par souche*.

- (4) For the purposes of this Article “household effects” means articles of household or personal use or ornament normally situate in or around the matrimonial home or civil partnership home, but excludes –
- (a) any motor vehicle;
  - (b) any article used wholly or principally for business purposes;
  - (c) money or securities for money;
  - (d) any single article or any single group of similar or related articles forming a set having in either case a value over £10,000; and
  - (e) any article of personal use or ornament which is the subject of a specific bequest under the will of the deceased spouse or deceased civil partner.<sup>12</sup>
- (5) For the purposes of this Article, moneys received under a policy of insurance taken out by the deceased spouse or the deceased civil partner on the deceased spouse’s life, or the deceased civil partner’s life, for the sole purpose of repaying or reducing indebtedness which is secured either by a simple conventional hypothec or a judicial hypothec against immovable property owned by the deceased spouse or the deceased civil partner alone or with another or others, shall not be deemed to form part of the net movable estate to the extent that they are used to repay or reduce such indebtedness or interest accruing thereon to the date of repayment.<sup>13</sup>
- (6) The States may from time to time make Regulations altering the sums specified in –
- (a) paragraph (1)(b)(ii);
  - (b) paragraph (4)(d).

### EXCEPTIONS

## 8 Spouses living-residing apart

- (A1) In this Article the “surviving spouse provisions” means –
- (a) the provisions of Articles 5, 5A, 6, ~~6B~~ and 7 ~~which-that~~ operate to confer property or any *usufruit*, interest, right or title in or to property on a surviving spouse; and
  - (b) so much of the customary law as operates to confer property or any *usufruit*, interest, right or title in or to property on a surviving spouse in ~~his-or-her~~their capacity as ~~such~~spouse.<sup>14</sup>
- (1) The surviving spouse provisions ~~shall-do~~ not apply ~~where-if~~ –
- (a) at the date of the death of the deceased spouse the deceased spouse and the surviving spouse were not residing together; and
  - (b) either –
    - (i) the surviving spouse had deserted the deceased spouse without cause and ~~such-the~~ desertion was continuing, or
    - (ii) a decree of judicial separation with respect to the surviving spouse had been granted by a court to the deceased spouse.<sup>15</sup>

- (2) ~~Where~~If, by operation of ~~the provisions of~~ paragraph (1), the surviving spouse provisions do not apply to a surviving spouse, any property of the deceased spouse to which the surviving spouse provisions would otherwise have applied ~~shall devolve~~s as if the surviving spouse had died immediately before the deceased spouse.
- (3) Paragraphs (1) and (2) ~~are without prejudice to do not limit~~ any power of the Court, on any grounds other than the grounds set out in paragraph (1); ~~to exclude a person from the right to succeed to an estate.~~<sup>16</sup>
- (a) ~~to deprive a person of their right to enjoyment of the estate; or~~
- (b) ~~to exclude a person from any of their rights to succeed to the estate.~~

### 8AA Civil partners living-residing apart<sup>17</sup>

- (1) ~~The~~The provisions of Articles 5, 5A, 6, ~~6A~~ and 7 ~~that~~ operateing to confer property, or any *usufruit*, interest, right or title in or to property on a surviving civil partner (in this Article referred to as the “surviving civil partner provisions”) ~~shall do not apply where-if~~ –
- (a) at the date of the death of the deceased civil partner the deceased civil partner and the surviving civil partner were not residing together; and
- (b) either –
- (i) the surviving civil partner had deserted the deceased civil partner without cause and such desertion was continuing, or
- (ii) a separation order with respect to the surviving civil partner had been granted by a court to the deceased civil partner.<sup>18</sup>
- (2) ~~Where~~If, by operation of ~~the provisions of~~ paragraph (1), the surviving civil partner provisions do not apply to a surviving civil partner, any property of the deceased civil partner to which the surviving civil partner provisions would otherwise have applied ~~shall devolve~~s as if the surviving civil partner had died immediately before the deceased civil partner.
- (3) Paragraphs (1) and (2) ~~are without prejudice to do not limit~~ any power of the Court, on any grounds other than the grounds set out in paragraph (1); ~~to exclude a person from the right to succeed to an estate.~~<sup>19</sup>
- (a) ~~to deprive a person of their right to enjoyment of the estate; or~~
- (b) ~~to exclude a person from any of their rights to succeed to the estate.~~

## PART 3A<sup>20</sup>

### EQUALITY OF SUCCESSION RIGHTS OF LEGITIMATE AND ILLEGITIMATE ISSUE

#### 8A Interpretation of Part 3A

In this Part –

“commencement day” means the day this Part came into force;

~~“disposition” means a disposition made by—~~

~~(a) a will or codicil; or~~

~~(b) an instrument executed *entre vifs* which relates to rights of succession;~~

“rights of succession” include the entitlement, according to customary law –

(a) to apply to reduce a will *ad legitimum modum*; or

(b) to a grant as administrator or executor dative.

### **8B Application of Part 3A**

This Part applies to the estate of a person who dies on or after the commencement day.

### **8C Equality of succession rights of legitimate and illegitimate issue**

(1) An illegitimate child shall have the same rights of succession as if he or she were the legitimate issue of his or her parents.

(2) A person shall have the same rights of succession –

(a) to the estate of an illegitimate child; or

(b) to an estate traced through a relationship of which an illegitimate child was the progeny,

as if that child were the legitimate issue of his or her parents.

### **8D Construction of dispositions**

(1) This Article applies to a disposition executed on or after the commencement day.

(2) The disposition shall be construed in accordance with the rights expressed in Article 8C, unless a contrary intention appears.

(3) Accordingly, in the disposition, ‘child’, ‘issue’, ‘son’ and ‘daughter’ and any similar description, shall be taken to include both legitimate and illegitimate persons of that description, unless the contrary intention appears.

(4) A disposition executed before the commencement day is not, for the purposes of paragraph (1), to be treated as executed on or after that day by reason only that the will or instrument in which it appears has been confirmed by a codicil or further instrument executed on or after that day.

### **8E Presumptions of survivorship relating to illegitimate child**

(1) Unless the contrary is proved, an illegitimate child shall be presumed not to have been survived by his or her father or by any person related to the child only through the child’s father.

(2) Unless the contrary is proved, for the purposes of obtaining a grant of probate or administration, it shall be presumed that the deceased was not survived by –

(a) an illegitimate child; or

- (b) any person whose relationship to the deceased is traceable through the birth of an illegitimate child.

#### **8F Amendment of customary laws**

The customary laws of succession are hereby amended so as to confer the rights expressed in Article 8C.

#### **8G Construction of enactments**

Enactments pertaining to rights of succession shall be construed so as to confer the rights expressed in Article 8C.

### **PART 4**

#### **COMMORIENTES**

#### **9 Declaration of survivorship or simultaneous death**

- (1) Where 2 or more persons appear to have died in circumstances rendering it uncertain which of them survived the other or others, any interested person may apply to the Court for an order declaring that the persons who appear to have died in such circumstances shall be deemed to have died simultaneously or, as the case may be, declaring that one or more of those persons survived another or others.
- (2) Where any application is made under this Article –
  - (a) notice thereof shall be given in such manner as the Court may direct, and any other interested person may intervene and be heard;
  - (b) the Court shall examine the evidence produced by the applicant and by any person intervening and may order such other persons to be convened, such additional evidence to be heard and such further enquiries to be made as the Court thinks necessary.
- (3) In any proceedings under this Article –
  - (a) the onus of proving the survivorship or predecease of any person shall rest on the party asserting it;
  - (b) in the absence of corroborating evidence, the Court shall not be bound to accept the accuracy of any statement specifying the time of death of a deceased person contained in any certificate issued, or register of deaths maintained, by any person or authority, or in any report of an inquest or other official inquiry.
- (4) On any application for an order under this Article the Court shall not make an order in respect of any deceased person unless it is satisfied that –
  - (a) at the time of death the deceased person was domiciled in Jersey;
  - (b) at the time of death the deceased person owned, or was entitled to an interest in, movable or immovable property situate in Jersey; or

- (c) the right of the deceased person to any movable or immovable property or to any interest therein was, or could have been, affected by the death of another person in respect of whom the Court has power to make an order on an application under this Article.
- (5) If at the conclusion of proceedings under this Article the Court is of the opinion that the sequence in which some or all of the deceased persons named in the application died has not been established beyond reasonable doubt, the Court shall make an order declaring that such persons shall be deemed to have died simultaneously.
- (6) If at the conclusion of proceedings under this Article the Court is satisfied beyond reasonable doubt that a deceased person named in the application survived another deceased person therein named for any period of time, the Court may make an order declaring that the one survived the other.
- (7) An order made under paragraph (5) or (6) shall be binding on all persons for all purposes affecting the title to –
  - (a) the immovable estate situate in Jersey of a deceased person named in the order who died domiciled in Jersey or elsewhere;
  - (b) the movable estate wherever situate of a deceased person named in the order who died domiciled in Jersey;
  - (c) the movable estate situate in Jersey of a deceased person named in the order who died domiciled outside Jersey where the devolution of such movable estate is not governed by the law of any other country or falls to be governed by the law of Jersey by virtue of the law of any other country, whether by application of the doctrine of *renvoi* or otherwise.

## 10 Effect of declaration of simultaneous death

- (1) Where the Court has made an order under Article 9(5) the estate of any deceased person named in the order shall, subject to the provisions of this Article, be held or distributed in the way that it would have been had no other deceased person named in the order survived that deceased person.
- (2) Where deceased persons named in an order made under Article 9(5) owned property jointly, their joint ownership shall, subject to any order of the Court, be deemed to have become ownership in common in equal shares at the time of their decease:  
Provided that this paragraph –
  - (a) shall not apply in any case where deceased persons named in the order owned property jointly with another person who survived them;
  - (b) shall not be construed as derogating from the rule of customary law relating to *avancement de succession*.
- (3) Where a will contains a gift which is to take effect only in the event of some person having predeceased the testator, the gift shall not fail solely by reason that the Court had made an order declaring that the testator and such person shall be deemed to have died simultaneously, but it shall take effect in the same manner as if such person had predeceased the testator.

- (4) An order made by the Court declaring that an intestate and the intestate's heir shall be deemed to have died simultaneously shall not deprive any descendant of the heir of any right to represent the heir in the distribution of the estate of the intestate which the descendant would have had if the heir had predeceased the intestate:

Provided that if the heir leaves a surviving spouse or surviving civil partner, that spouse or that civil partner shall have the same rights in respect of the immovable estate of the heir as that spouse or that civil partner would have had if the heir had died after the death of the intestate.<sup>21</sup>

## 11 Testamentary direction as to survivorship

Nothing in this Part shall be construed as derogating from the right of a testator by express provision in a will to direct that if 2 or more persons named in the will shall have died in circumstances rendering uncertain which of them survived the other or others then one or more of such persons shall be deemed to have survived the other or others, and in any such case the will shall be construed without regard to any contrary provisions of this Law.

## PART 5

### ABOLITION OF CERTAIN RULES OF CUSTOMARY LAW

## 12 Abolition of *année de jouissance*

- (1) Subject to paragraph (2), the *année de jouissance* is hereby abolished.
- (2) Paragraph (1) shall not affect an entitlement to an *année de jouissance* arising in respect of a death which occurred before the coming into force of this Law.

## 13 Abolition of rule about gifts to concubines<sup>22</sup>

The rule under customary law that all gifts to a concubine are null is hereby abolished.

## 14 Abolition of right of principal heir to demand possession of movable estate<sup>23</sup>

The right under customary law of the principal heir to interpose and demand possession of the movable estate from the executor of a deceased person's will on depositing with the executor the full amount of the bequests made under the will, together with the debts and other charges of the administration, is hereby abolished.

## 14A Abolition of *viduité*<sup>24</sup>

A widower's entitlement to *viduité* in the immovable estate of his deceased wife as to which she died testate is hereby abolished.

**14B Abolition of requirement of consummation in relation to dower<sup>25</sup>**

The rule of law expressed in the maxim *le douaire se gagne au coucher* is hereby abolished.

**14C Abolition of role of gender in determining principal heir**

(1) In determining the principal heir, the gender of a person does not give that person, or that person's descendent, precedence over any other person.

(2) Paragraph (1) does not apply in relation to the estate of a person who died before the day that the Wills and Successions (Variation of Dower) (Jersey) Amendment Law 202- came into force.

**PART 6****MISCELLANEOUS****15 Costs of administration**

The costs of administration of the movable estate of a deceased person shall be paid out of the gross movable estate unless the deceased person's will provides otherwise.

**16 ~~Testamentary Dispositions~~ and appointments revoked by divorce or dissolution of civil partnership<sup>26</sup>**

(1) If a will contains a devise, legacy or other gift in favour of the testator's spouse or appoints the testator's spouse as executor of the will, such devise, legacy, other gift or appointment shall, subject to any provision to the contrary contained in the will, be revoked, if after the execution of the will the marriage of the testator and the testator's spouse is dissolved or annulled.

(2) If a will contains a devise, legacy or other gift in favour of the testator's civil partner or appoints the testator's civil partner as executor of the will, such devise, legacy, other gift or appointment shall, subject to any provision to the contrary contained in the will, be revoked, if after the execution of the will the civil partnership of the testator and the testator's civil partner is dissolved or annulled.

**17 Will made by a minor**

No will made by a person under the age of majority shall be invalid by reason only of that fact if such person is married or is in a civil partnership at the time of the execution of such will.<sup>27</sup>

**17A Will signed by person other than testator<sup>28</sup>**

(1) Despite Articles 8 and 30 of the [Loi \(1851\) sur les testaments d'immeubles](#) or any rule of customary law, a will of movable or immovable estate shall be valid when it has not been signed by the testator if –



- (a) the testator declared in the presence of 2 witnesses (one of whom was a qualified witness) present together that, being physically incapacitated to sign the will himself or herself, the testator wished the will to be signed by another person on the testator's behalf;
  - (b) the declaration by the testator and the date it was made are recorded on the face of the will;
  - (c) the will was read aloud to the testator (or, in the case of a deaf testator, the whole contents of the will were made known to the testator by some other means) in the presence of the person signing the will on behalf of the testator and the two witnesses; and
  - (d) after the will was read to the testator (or, in the case of a deaf testator, after the whole contents of the will were made known to him or her by some other means), the will was signed by some other person on the testator's behalf in the presence of the 2 witnesses present together and the 2 witnesses put their signatures to the will, in the presence of each other and of that other person.
- (2) A person shall not be competent to sign a will on behalf of a testator unless that person has the capacity to execute a valid will of his or her own.
- (3) In this Article, "qualified witness" means –
- (a) if the will is executed in Jersey, a Jurat of the Royal Court, a member of the States, an advocate, a solicitor or a notary public; or
  - (b) if the will is executed outside Jersey –
    - (i) one of the persons mentioned in sub-paragraph (a), or
    - (ii) a judge, justice of the peace, magistrate, mayor, chief officer of any city or municipal corporation, a barrister, solicitor, a lawyer qualified under the legal system of the place of execution, a person authorized to take oaths or affidavits or the equivalent thereof by the law of Jersey or the law of the place of execution, a British consular official (or a person for the time being discharging the duties of such an official), or, if the testator is a member of the British armed forces, an officer of those forces authorized to take affidavits.
- (4) In paragraph (3)(b)(ii) –
- “barrister” means a person who is qualified as a barrister in England and Wales or Northern Ireland or as an advocate in Scotland; and
- “solicitor” means a solicitor of the Supreme Court of England and Wales, a solicitor of the Supreme Court of Judicature of Northern Ireland or a solicitor in Scotland.
- (5) The States may by Regulations amend paragraph (3) or (4).

**17B** <sup>29</sup>

## **18 Liability of heir, devisee or legatee**

The liability of an heir to, or a legatee or devisee of, the movable or immovable estate of a deceased person for the debts due by such deceased person shall in no case exceed the value of the estate or part of the estate accruing to that heir, legatee or devisee.

**18A Gamete donors<sup>30</sup>**

- (1) Part 3A of the Wills and Successions (Jersey) Law 1993 shall not be construed as conferring rights of succession as if a child were the legitimate issue of a man where –
  - (a) the man's sperm is used for the purposes of medical, surgical or obstetric services provided for the purpose of assisting the child's mother to carry the child; and
  - (b) those services are not received by him and the mother together.
- (2) Paragraph (1) does not affect the operation of Article 20 of the [Adoption \(Jersey\) Law 1961](#) in the event that the child is adopted by the man.
- (3) For the avoidance of doubt, a woman whose ova are used for the purposes of medical, surgical or obstetric services provided for the purpose of assisting another woman to carry a child is not, for the purpose of conferring any rights of succession, to be treated as the mother of the child.
- (4) Paragraph (3) does not affect the operation of Article 20 of the [Adoption \(Jersey\) Law 1961](#) in the event that the child is adopted by the woman first mentioned in that paragraph.

**19 Non-discrimination**

Notwithstanding any rule of law or enactment to the contrary, the estate, whether movable or immovable, of a person dying testate or intestate shall devolve without regard to the nationality of –

- (a) the person so dying;
- (b) any beneficiary; or
- (c) any person through whom (*à la représentation de laquelle*) a beneficiary claims.

**20 Rights of purchaser for value**

No bona fide purchaser for value of any movable or immovable estate shall be disturbed in ownership by the registration of a will subsequent to the expiration of a year and a day from the date of death of the testator.

**20A Sale or donation of immovable property<sup>31</sup>**

- (1) Where –
  - (a) immovable estate has devolved, whether on an intestacy or under a will registered in the Public Registry, on more than one heir at law;
  - (b) one or more, but not all, of the heirs at law join in a contract of sale or donation of the estate, or any part of it or any interest in it; and
  - (c) the purchaser or donee joins in the contract in good faith, in ignorance of the existence of any heir at law who has not joined in the contract,

title in the estate or part or interest shall pass to the purchaser or donee, as the case may be, as if the contract had been joined in by all of the heirs at law.

- (2) Where title in any immovable estate or interest passes to a purchaser or donee in the circumstances described in paragraph (1), an heir at law who did not join in the contract by virtue of which title passed to the purchaser or donee, shall be entitled to claim his or her proportionate share of the proceeds of sale or, in the case of a donation, of the value of the estate or interest conveyed, from the heir or heirs at law who joined in the contract and any heir at law who has previously made a successful claim under this paragraph.
- (3) A claim under paragraph (2) must be made within the period of 10 years following the date the contract was passed.
- (4) For the purposes of this Article “heir at law” means –
  - (a) a person on whom immovable estate has devolved on an intestacy, in accordance with Article 4; or
  - (b) a person on whom immovable estate has devolved, under a will registered in the Public Registry, by virtue of being a person of a class described in the will.

## **21 Administration of estates of persons dying before this Law came into force**

Notwithstanding the provisions of this Law, or any repeal effected thereby, the estate of a person who has died before the coming into force of this Law shall continue to be administered in accordance with the law and procedure in force prior to the coming into force of this Law.

## **22 Manorial and other rights**

Nothing in this Law shall affect the *privilèges*, *amortissements* and *préciputs* which are by custom attached to certain houses and manors in Jersey.

## **22A Wills and Successions (Amendment No. 2) (Jersey) Law 2013: application<sup>32</sup>**

The amendments made to this Law by the Wills and Successions (Amendment No. 2) (Jersey) Law 2013 shall not apply in relation to the estate of a person who died before ~~the day that Law came into force~~ [1st January 2014](#).

## **23 Citation**

This Law may be cited as the Wills and Successions (Jersey) Law 1993.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Wills and Successions (Jersey) Law 1993	<a href="#">L.18/1993</a>	1 September 1993 (R&O.8575)	
Wills and Successions (Amendment) (Jersey) Law 2010	<a href="#">L.22/2010</a>	29 January 2011	<a href="#">P.7/2010</a>
Civil Partnership (Jersey) Law 2012	<a href="#">L.4/2012</a>	2 April 2012 ( <a href="#">R&amp;O.48/2012</a> )	<a href="#">P.85/2011</a>
Wills and Successions (Amendment No. 2) (Jersey) Law 2013	<a href="#">L.16/2013</a>	1 January 2014 ( <a href="#">R&amp;O.162/2013</a> )	<a href="#">P.38/2013</a>
Signing of Instruments (Miscellaneous Provisions) (Jersey) Law 2018	<a href="#">L.21/2018</a>	8 June 2018	<a href="#">P.10/2018</a>
Marriage and Civil Status (Amendment No. 4) (Jersey) Law 2018	<a href="#">L.19/2018</a>	1 July 2018 ( <a href="#">R&amp;O.68/2018</a> )	<a href="#">P.91/2017</a>
Covid-19 (Signing of Instruments) (Jersey) Regulations 2020	<a href="#">R&amp;O.50/2020</a>	23 April 2020	<a href="#">P.50/2020</a>
Covid-19 (Amendments – Extension, Suspension and Repeal) (Jersey) Regulations 2020	<a href="#">R&amp;O.115/2020</a>	30 September 2020	<a href="#">P.103/2020</a>
Covid-19 (Amendments – Extension and Suspension) (Jersey) Regulations 2021	<a href="#">R&amp;O.52/2021</a>	29 April 2021	<a href="#">P.25/2021</a>
Covid-19 (Amendments – Further Extensions) (Jersey) Regulations 2021	<a href="#">R&amp;O.127/2021</a>	15 October 2021	<a href="#">P.84/2021</a>
Covid-19 (Amendments – Extensions to September 2022) (Jersey) Regulations 2022	<a href="#">R&amp;O.35/2022</a>	1 April 2022	<a href="#">P.28/2022</a>

°Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
1(1)	1
1(2), (3), (4)	spent, omitted from this revised edition
23	spent, omitted from this revised edition
24	spent, omitted from this revised edition
25	23
FIRST SCHEDULE	spent, omitted from this revised edition
SECOND SCHEDULE	spent, omitted from this revised edition

**Table of Endnote References**

---

<sup>1</sup> Article 1(1)	<i>amended by L.22/2010, L.4/2012</i>
<sup>2</sup> Article 1(2)	<i>inserted by L.22/2010</i>
<sup>3</sup> Part 3	<i>heading amended by L.4/2012</i>
<sup>4</sup> Article 5	<i>substituted by L.4/2012</i>
<sup>5</sup> Article 6(1)	<i>amended by L.4/2012</i>
<sup>6</sup> Article 6(3)	<i>amended by L.4/2012</i>
<sup>7</sup> Article 6A	<i>substituted by L.19/2018</i>
<sup>8</sup> Article 6B	<i>inserted by L.16/2013</i>
<sup>9</sup> Article 6C	<i>inserted by L.16/2013</i>
<sup>10</sup> Article 7(1)	<i>amended by L.4/2012</i>
<sup>11</sup> Article 7(2)	<i>substituted by L.4/2012</i>
<sup>12</sup> Article 7(4)	<i>amended by L.4/2012</i>
<sup>13</sup> Article 7(5)	<i>amended by L.4/2012</i>
<sup>14</sup> Article 8(A1)	<i>inserted by L.16/2013</i>
<sup>15</sup> Article 8(1)	<i>amended by L.16/2013</i>
<sup>16</sup> Article 8(3)	<i>added by L.16/2013</i>
<sup>17</sup> Article 8AA	<i>added by L.4/2012</i>
<sup>18</sup> Article 8AA(1)	<i>amended by L.16/2013</i>
<sup>19</sup> Article 8AA(3)	<i>added by L.16/2013</i>
<sup>20</sup> Part 3A	<i>inserted by L.22/2010</i>
<sup>21</sup> Article 10(4)	<i>amended by L.4/2012</i>
<sup>22</sup> Article 13	<i>heading substituted by L.16/2013</i>
<sup>23</sup> Article 14	<i>heading substituted by L.16/2013</i>
<sup>24</sup> Article 14A	<i>inserted by L.16/2013</i>
<sup>25</sup> Article 14B	<i>inserted by L.16/2013</i>
<sup>26</sup> Article 16	<i>substituted by L.4/2012</i>
<sup>27</sup> Article 17	<i>amended by L.4/2012</i>
<sup>28</sup> Article 17A	<i>inserted by L.21/2018</i>
<sup>29</sup> Article 17B	<i>inserted by R&amp;O.50/2020, expired on 30 September 2022</i>
<sup>30</sup> Article 18A	<i>inserted by L.22/2010</i>
<sup>31</sup> Article 20A	<i>inserted by L.22/2010</i>
<sup>32</sup> Article 22A	<i>inserted by L.16/2013</i>