



Jersey

COVID-19 (SIGNING OF INSTRUMENTS) (JERSEY) REGULATIONS 2020

Contents

Regulation

| | | |
|-----------------|--|----------|
| PART 1 | | 3 |
| <hr/> | | |
| | TEMPORARY ARRANGEMENTS FOR THE SIGNING AND WITNESSING OF DOCUMENTS AND SWEARING OF OATHS | 3 |
| 1 | Interpretation | 3 |
| 2 | Procedure for application for probate or letters of administration where applicant not physically present | 3 |
| 3 | Procedure for attestation of documents required to be executed in the matter of a grant where witness not physically present..... | 4 |
| | | |
| PART 2 | | 6 |
| <hr/> | | |
| | AMENDMENT OF LAW AND CLOSING | 6 |
| 4 | Wills and Successions (Jersey) Law 1993 amended..... | 6 |
| 5 | Citation, commencement and expiry | 7 |
| | | |
| ENDNOTES | | 8 |
| <hr/> | | |
| | Table of Endnote Reference | 8 |



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COVID-19 (SIGNING OF INSTRUMENTS) (JERSEY) REGULATIONS 2020

Made 22nd April 2020
Coming into force 23rd April 2020

THE STATES make these Regulations under Article 2 of the Covid-19 (Enabling Provisions) (Jersey) Law 2020¹ –

PART 1

TEMPORARY ARRANGEMENTS FOR THE SIGNING AND WITNESSING OF DOCUMENTS AND SWEARING OF OATHS

1 Interpretation

In Regulations 2 and 3 “Probate Rules” means the Probate (General) Rules 1998².

2 Procedure for application for probate or letters of administration where applicant not physically present

- (1) This Regulation applies where in the period commencing on or after the coming into force of these Regulations up to 30th September 2020 –
 - (a) an application is made under Rule 2 (application, other than pursuant to Article 6(7), for probate through an advocate or solicitor) or Rule 3 (application, other than pursuant to Article 6(7), for a grant of administration through an advocate or solicitor) of the Probate Rules; and
 - (b) that application cannot be made in the physical presence of the Greffier because of the measures taken to reduce the spread of Covid-19.
- (2) Where this Regulation applies –
 - (a) any documents required to be produced under Rule 2(1) or (2) or 3(1) or (2) must be delivered to the Greffier for the Greffier’s review not less than 3 working days before the application is made;
 - (b) when the Greffier is satisfied that those documents are in order, the Greffier must confirm the same to the applicant;

- (c) the requirement to appear personally before the Greffier is waived; and
 - (d) the oath must be sworn following the procedure in paragraph (3).
- (3) The procedure for swearing is –
- (a) at the time the oath is to be sworn, the Greffier and the applicant must be able to see and hear one another over an audio-visual link;
 - (b) over the audio-visual link, the Greffier –
 - (i) must positively identify the applicant as the executor or administrator,
 - (ii) must read out the relevant oath,
 - (iii) must see the applicant sign the oath, and
 - (iv) must satisfy himself or herself by whatever means the Greffier considers practical that the document signed by the applicant is the oath.
- (4) The signed oath must be returned to the Greffier within such period as the Greffier may direct, who must then –
- (a) countersign the oath; and
 - (b) certify on the face of the oath that the procedure in paragraph (3) was correctly followed.
- (5) In this Regulation –
- “positively identify” means –
- (a) if the person is known to the Greffier, that the Greffier can recognise the person over the audio-visual link; or
 - (b) if the person is not known to the Greffier, that the person is able to identify himself or herself to the Greffier with any form of photographic identification which the Greffier is able to see over the audio-visual link;
- “relevant oath” means an oath referred to in Rule 2(3) or 3(3), as the case may be, of the Probate Rules.
- (6) Nothing in this Regulation is to be taken as derogating from the provisions of Rule 2 and 3 of the Probate Rules.

3 Procedure for attestation of documents required to be executed in the matter of a grant where witness not physically present

- (1) This Regulation applies where in the period commencing on or after the coming into force of these Regulations up to 30th September 2020 –
- (a) a person referred to in Rule 10(1) (attestation of documents) of the Probate Rules attests the execution of any renunciation, disclaimer, certificate or other document so required under that paragraph 10(1); and
 - (b) that renunciation, disclaimer, certificate or other document cannot be executed in the physical presence of that person because of the measures taken to prevent the spread of Covid-19.

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- (2) Where this Regulation applies, the renunciation, disclaimer, certificate or other document is duly executed if it is signed and witnessed in the following way –
- (a) at the time the renunciation, disclaimer, certificate or other document is about to be signed, the person executing that renunciation, disclaimer, certificate or other document and the person attesting that execution must be able to see one another over an audio-visual link;
 - (b) over the audio-visual link, the person attesting the execution –
 - (i) must positively identify the person executing the renunciation, disclaimer, certificate or other document,
 - (ii) must see that person sign the renunciation, disclaimer, certificate or other document, and
 - (iii) must satisfy himself or herself, by whatever means he or she considers practical, that the document signed by the person executing the renunciation, disclaimer, certificate or other document is the renunciation, disclaimer, certificate or other document.
- (3) The person executing the renunciation, disclaimer, certificate or other document must file the same with the Greffier, within such time as the Greffier may direct.
- (4) The person attesting the execution of the renunciation, disclaimer, certificate or other document must, not later than 14 days after attesting the execution of the same, provide the Greffier with a written declaration that the person attesting the execution –
- (a) has witnessed the signing of the renunciation, disclaimer, certificate or other document in question over audio-visual link;
 - (b) has positively identified the person executing the renunciation, disclaimer, certificate or other document and the method he or she has used to do so;
 - (c) has seen the person executing the renunciation, disclaimer, certificate or other document sign that renunciation, disclaimer, certificate or other document; and
 - (d) is satisfied, by whatever means he or she considers practical, that the document signed by the person executing the renunciation, disclaimer, certificate or other document is the renunciation, disclaimer, certificate or other document.
- (5) In this Regulation “positively identify” means –
- (a) if the person executing the renunciation, disclaimer, certificate or other document is known to the person attesting the execution, that the person attesting the execution can recognise that person over the audio-visual link; or
 - (b) if the person executing the renunciation, disclaimer, certificate or other document is not known to the person attesting the execution, that that person is able to identify himself or herself to the person attesting the execution with any form of photographic identification which that person is able to see over the audio-visual link.

PART 2

AMENDMENT OF LAW AND CLOSING

4 Wills and Successions (Jersey) Law 1993 amended

After Article 17A (will signed by person other than testator) of the Wills and Successions (Jersey) Law 1993³ there is inserted –

“17B Will witnessed where testator or witness not physically present

- (1) This Article applies where in the period commencing on or after the coming into force of the Covid-19 (Signing of Instruments) (Jersey) Regulations 2020⁴ up to 30th September 2020 –
 - (a) a will of movable or immovable estate is made; and
 - (b) the will cannot be signed by the testator in the physical presence of one or both of the witnesses because of the measures taken to reduce the spread of Covid-19.
- (2) Despite Articles 8 and 30 of the Loi (1851) sur les testaments d'immeubles⁵ or any rule of customary law, where this Article applies, a will is valid if it is signed and witnessed in the following way –
 - (a) at the time that the will is about to be signed, the testator and the witnesses must be able to see one another, either in person or over an audio-visual link;
 - (b) any witness who appears by audio-visual link –
 - (i) must positively identify the testator,
 - (ii) must see the testator sign the will, and
 - (iii) must satisfy himself or herself, by whatever means he or she considers practical, that the document signed by the testator is the will; and
 - (c) in the case of a will of immovables, each witness and the testator must hear, at the same time, the will read aloud in its entirety.
- (3) A witness who appears by audio-visual link must, as soon as is reasonably practicable after witnessing the signing of the will, provide the testator with a written declaration that the witness –
 - (a) has witnessed the signing of the will in question over audio-visual link;
 - (b) has positively identified the testator and the method used to do so;
 - (c) has seen the testator sign the will;
 - (d) is satisfied that the document signed by the testator is the will; and
 - (e) if the will is a will of immovables, has heard the will read aloud in its entirety.

- (4) If the testator has retained an advocate or solicitor for the purposes of drafting the testator's will, the written declaration in paragraph (3) may be provided to that advocate or solicitor instead of the testator.
- (5) In this Article –
“Covid-19” has the same meaning as in the Covid-19 (Enabling Provisions) (Jersey) Law 2020⁶;
“positively identify” means –
 - (a) if the testator is known to the witness, that the witness can recognise the testator over the audio-visual link; or
 - (b) if the testator is not known to the witness –
 - (i) that the testator is able to identify himself or herself to the witness with any form of photographic identification which the witness is able to see over the audio-visual link, or
 - (ii) that a medical professional or care worker is able to confirm the identity of the testator to the witness over the audio-visual link.
- (6) Nothing in this Article is to be taken as derogating from the provisions of Articles 8 and 30 of the Loi (1851) sur les testaments d'immeubles or any rule of customary law.
- (7) Nothing in this Article affects the validity of a holograph will of movable estate.
- (8) This Article expires on 30th September 2020.”.

5 Citation, commencement and expiry

- (1) These Regulations may be cited as the Covid-19 (Signing of Instruments) (Jersey) Regulations 2020 and come into force on the day after they are made.
- (2) These Regulations expire on 30th September 2020.

L.-M. HART

Deputy Greffier of the States

ENDNOTES

Table of Endnote Reference

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|----------|--------------------------|
| <i>1</i> | <i>L.2/2020</i> |
| <i>2</i> | <i>chapter 04.720.60</i> |
| <i>3</i> | <i>chapter 04.960</i> |
| <i>4</i> | <i>R&O.50/2020</i> |
| <i>5</i> | <i>chapter 18.800</i> |
| <i>6</i> | <i>L.2/2020</i> |