

STATES OF JERSEY



DRAFT WILLS AND SUCCESSIONS AND PROBATE (JERSEY) LAW 202- (P.41/2026): COMMENTS

**Presented to the States on 17th March 2026
by the Corporate Services Scrutiny Panel**

STATES GREFFE

COMMENTS

Introduction and Context

1. The proposition entitled *Draft Wills and Successions and Probate (Jersey) Amendment Law 202-* [\[P.41/2026\]](#) – (“the draft Law”), proposes changes to the [Wills and Successions \(Jersey\) Law 1993](#) (“the WSJL”) and the [Probate \(Jersey\) Law 1998](#) (“the PJL”).
2. The WSJL governs circumstances where a person dies intestate, without a will setting out wishes about how their assets should be allocated upon their death. The WSJL provides the different rules that apply to the “*succession of each type of asset on intestacy*”.¹
3. The draft Law reflects a lengthy process of developing the legislation governing succession in Jersey. The proposals are the second tranche of amendments to succession law that were advised by the Legislation Advisory Panel² (“the LAP”) and follow amendments to the collateral succession of immovable estate, through the States Assembly’s adoption of the Draft Wills and Successions (Amendment No. 3 – Collateral Succession of Immovable Estate (Jersey) Law 202- [\[P.105/2023\]](#), in April 2024.
4. The report accompanying the draft Law highlights that the LAP undertook consultation with stakeholders in relation to the proposals, and that this commenced in May 2024, concluding in September 2024. The consultation engaged the public as well as “*lawyers working in the area of wills, succession and probate*”, the Judicial Greffier and the Law Society Sub-Committee on Succession (“the JLS”).³

Scrutiny of the proposals

5. The Panel received an initial private briefing from a Legal Adviser in the Law Officers’ Department (“the LOD”) on 1st July 2024 regarding proposals to update the WSJL. The Panel learned that the earlier review of the WSJL, which led to amendments adopted in P.105/2023, had identified additional areas where further modernisation would be beneficial to bring the WSJL up to current standards.
6. The notable areas highlighted included the rights of dower⁴ for a spouse or civil partner to life enjoyment of the family home, the introduction of gender neutrality to the legal concept of the principal heir and changes to the inheritance rights of whole and half-blood relatives to apply equally to immovable property and movable property.

¹ [What happens if I do not make a will? – Ogier](#)

² Legislation Advisory Panel: Both executive and non-executive States Members appointed by the Chief Minister. The Panel advises on a “*range of legislative matters that do not fall under the responsibility of a particular Minister.*”

³ [Draft Wills and Successions and Probate \(Jersey\) Amendment Law 202-](#)

⁴ Dower is a legal right, traditionally allowing a widow a life interest in a portion - often one-third - of her deceased husband's real property to ensure her financial security.

7. The Panel noted that some technical improvements to the WSJL were also being considered, including updates to definitions, removal of duplications and re-ordering of information. These changes aim to modernise the structure of the WSJL and make it easier for readers to understand and navigate.
8. Following the lodging of the proposition, on 18th February 2026 the Panel wrote to the Judicial Greffier and the JLS to request feedback about the consultation on the proposals and the draft Law. The Panel also sought feedback from the Office of the Children's Commissioner for Jersey ("the OCCJ") about the potential impact of the proposals on children and young people. Submissions were received from the [JLS](#), [OCCJ](#) and the [Judicial Greffier](#).
9. The Panel received a further private briefing with the Chair of the LAP and a Legal Adviser from the LOD on 3rd March 2026, which provided the Panel with further context about the purpose of the draft Law and key updates proposed to the WSJL. The Panel also used the briefing to raise and discuss feedback provided from key stakeholders.

Wills and Successions (Jersey) Law 1993: Rights of dower

10. The Panel understands that under Jersey customary law, a widower's rights of dower grants an entitlement to occupy one third of a husband's estate, in the event that a will does not exist in which the husband's estate is given to the wife. Whilst this position has worked adequately in previous years, such as in relation to a large property with wings or other buildings that could be subdivided accordingly, the WSJL rules governing dower no longer reflect most Islanders' circumstances, whereby the subdivision of an average-sized or small property is not feasible. This has resulted in court assistance being required to determine the best approach, which is often a source of dispute.
11. The proposed changes to dower under the WSJL will provide for the surviving spouse or civil partners' life enjoyment of the entire matrimonial or civil partnership home (this includes a share transfer or company owned property), not merely one third. The report accompanying the draft Law states that the proposed changes are designed to "*reduce possible conflicts*" between the surviving spouse or civil partner and other family members, by reflecting the reality of modern familial homeownership in Jersey.⁵
12. The Panel also explored some practical considerations linked to the proposals. The Panel noted that providing life enjoyment of the home to the spouse or civil partner would also allow them to rent out the property, though they would still be responsible for its upkeep. The Panel expressed concern that if the spouse or civil partner lacked the funds for maintenance, the property could deteriorate or become derelict, until their life interest ends.
13. The Panel also recognised that the right to life enjoyment may cease should the surviving spouse or civil partner remarry or enter into a new civil partnership, depending on the circumstances.

⁵ [Draft Wills and Successions and Probate \(Jersey\) Amendment Law 202-](#)

14. The Panel considered potential equality, discrimination and human rights implications, and heard that no human rights issues would arise because the spouse or civil partner would hold a right to enjoyment, not ownership, of the property.
15. The report accompanying the draft Law states that the proposals therefore aim to “*continue and enhance*” the “*existing protections*” available to a surviving spouse or civil partner, who does not inherit the home they resided in with the deceased.⁶

Wills and Successions (Jersey) Law 1993: Principal heir

16. The Panel understands that the current WSJL defines the principal heir as the oldest male child, which raises issues for registry of probate and handling of probate and grants of administration. The eldest male heir is empowered under the current WSJL rules to carry out probate functions, even if they are not best suited to undertake the role of principal heir.
17. The report accompanying the draft Law highlights the current legal position, that in the absence of a male heir, “*the eldest female heir*” be assigned “*principal heir*” status.⁷ However, the Panel learned that in circumstances where a principal heir could not be found or identified, then this would incur a cost to the Judicial Greffe in making an application to the Royal Court to intervene.
18. Therefore, an important feature of the draft Law proposals, includes a change to the legal concept of the “*principal heir*”, which under the draft Law proposals will now be deemed to be the “*eldest heir regardless of gender*”, introducing gender neutrality to the legal concept of the principal heir.⁸

Wills and Successions (Jersey) Law 1993: Whole and half-blood siblings

19. The Panel understands that prior to the current WSJL, the previous succession law provided that whole-blood siblings would receive one whole share of an estate, and that half-blood siblings would receive one half share of an estate, and that these historical rights applied to both movable property and immovable property.
20. The Panel was informed that the current WSJL only refers to immovable property rights and not to movable property rights, and that this was a ‘quirk’ of the WSJL for which the draft Law proposes to provide clarity, by applying the rights of whole and half-blood relatives equally to the inheritance of immovable and movable property. The report accompanying the draft Law states that these changes were the “*result of a desire for more equitable provisions highlighted during the consultation*”.⁹

⁶ [Ibid](#)

⁷ [Draft Wills and Successions and Probate \(Jersey\) Amendment Law 202-](#)

⁸ [Ibid](#)

⁹ [Ibid](#)

Stakeholder engagement and feedback

21. The Panel explored the extent to which relevant stakeholders had been engaged when developing the draft Law.
22. The OCCJ confirmed that it had been consulted and briefed by the LAP in September 2024, to discuss any potential impacts from the draft Law proposals on children and young people.¹⁰
23. The Judicial Greffier highlighted in a response to the Panel that the consultation process undertaken with the LAP was “*helpful and appropriate*” and that the Judicial Greffe was “*very much involved*” in the proposed changes and had been provided with the “*opportunity to put forward our suggestions and feedback*”.¹¹
24. However, the JLS indicated that it had not received follow-up communications from the LAP in relation to its feedback on the proposed changes. The JLS stated that it had “*not been provided with any revisions to the draft*” which may have “*flowed from our comments and/or the meeting*”. Additionally, the JLS submitted that it was “*keen to be consulted again before the proposals are finalised*”.¹²
25. A key area of Panel consideration has also been the feedback provided by stakeholders to the LAP, during the consultation on the proposals, and the extent to which stakeholders believe that amendments to the WSJL achieve the intended aims.
26. The submissions provided to the Panel by the OCCJ and the Judicial Greffier expressed support for the proposals. The submission provided by the OCCJ highlighted that feedback had been provided to the LAP that the “*right to remain in the family home*” provision would provide “*a greater level of protection*” for any dependent children. The OCCJ also stated that it had “*suggested amendments*” in relation to the principal heir proposals to “*remove the gender discrimination*” in place under existing provisions. The OCCJ further stated that it was “*pleased to see that these two aspects remain*” in relation to the WSJL.¹³
27. The Judicial Greffier also expressed support for the proposed amendments to the WSJL. It was submitted to the Panel that the draft Law “*achieved the intended aims successfully*” and highlighted to the Panel that the “*preference for male heirs*” often resulted in “*frequent and unnecessary upset for family members*” administering the estate of a deceased relative. The Judicial Greffier also highlighted that the WSJL amendment to introduce gender neutrality to the

¹⁰ [Letter – Office of the Children’s Commissioner for Jersey – Draft Wills and Successions and Probate \(Jersey\) Amendment Law 202- 19th February 2026](#)

¹¹ [Letter – Judicial Greffier – Draft Wills and Successions \(Jersey\) Amendment Law 202- 26th February 2026](#)

¹² [Letter – Jersey Law Society Sub-Committee on Succession – Draft Wills and Successions \(Jersey\) Amendment Law 202- 18th February 2026](#)

¹³ [Letter – Office of the Children’s Commissioner for Jersey – Draft Wills and Successions and Probate \(Jersey\) Amendment Law 202- 19th February 2026](#)

legal concept of the principal heir, brings the draft Law in line with “*modern day standards*”.¹⁴

28. However, the JLS’s submission to the Panel raised a number of areas of concern as well as suggestions for improvement in relation to the WSJL, and the legal provisions governing succession in Jersey more generally. The key concerns raised by the JLS are set out as follows, with further detail provided in their [submission](#) to the Panel:

- a. The proposals do not allow a Jersey-domiciled person who is married or in a civil partnership to have “*complete testamentary freedom*” in relation to their immovable property.
- b. The language of Article 5(A) of the WSJL is not clear.
- c. The process of disclaiming a right to life enjoyment could be clearer, and more cost-effective.
- d. An “*Instrument of Disclaimer*” should be introduced for an heir wishing to disclaim a right to dower, and to enable anyone inheriting a share of immovable property, by way of testate or intestate, to obtain succession by way of statutory right.
- e. Uncertainty about whether the proposed changes override the current position, which allows parties to a marriage or civil partnership to disclaim succession rights by way of “*contrat de mariage*”.
- f. That Article 5(A) should “*expressly state*” whether the legal right to the new statutory right is “*an automatic right*” or “*whether it has to be claimed within a particular period as is the case with légitime*”.
- g. A lack of clarity about the rationale for the changes to Article 6 paragraph (3) in relation to scenarios concerning an individual who is “*survived by issue but not spouse or civil partner*”.
- h. Children and young people “*have no protection*” in relation to the family home and could “*potentially be disinherited accidentally or by design*”.
- i. That a “*process should exist*” whereby a legal heir can disclaim succession rights “*prior to death*”.
- j. With the retention of forced heirship, consideration should be given to the “*distinction between immovable property and share transfer (movable property)*”.¹⁵

29. The JLS further submitted to the Panel that the current proposals reflected “*minor tinkering*” with the law and advocated for a “*complete overhaul*” of succession law in Jersey, and that this should include a review of “*forced heirship / lack of testamentary freedom*” as well as the “*ability to disclaim the inheritance of immovable estate without the expense of a court application*”.¹⁶

30. During the follow-up briefing on 3rd March 2026, the Panel put forward the concerns submitted by the JLS about the limited nature and extent of the proposed changes. It was advised that whilst the LAP and the LOD had

¹⁴ [Letter – Judicial Greffier – Draft Wills and Successions \(Jersey\) Amendment Law 202- 26th February 2026](#)

¹⁵ [Letter – Jersey Law Society Sub-Committee on Succession – Draft Wills and Successions \(Jersey\) Amendment Law 202- 18th February 2026](#)

¹⁶ [Ibid](#)

considered suggestions for further changes to the WSJL and the PJJ, broader changes to the draft Law could be considered and addressed in future.

31. The Panel noted during the briefing that whilst there was scope for a broader review or assessment of the WSJL and PJJ, the proposals do deliver a number of immediate and necessary remedies to the current rules governing succession in Jersey.

Probate (Jersey) Law 1998

32. In written correspondence to stakeholders, the Panel also asked for feedback about the proposed changes to the PJJ. The JLS and Judicial Greffier provided feedback to the Panel about the decision to widen the discretion of the Judicial Greffier and Inferior Number of the Royal Court, through amendments to Article 14 of the PJJ.
33. The JLS submitted to the Panel that the Probate Registrar has “*always had a discretion*” under the Article 14 provision within the PJJ to “*appoint a suitable person*” to administer the estate of a deceased person, “*irrespective of their gender or age*”, and further stated that “*in recent years*” the identification of a principal heir had become an “*informal “default setting” for the administrator/executor dative*”.¹⁷
34. However, the Judicial Greffier informed the Panel that the amendments to the PJJ are “*helpful*” in relation to the appointment of a person other than the principal heir, which “*will help in some family situations*”.¹⁸
35. The Judicial Greffier provided two examples of how the proposed changes to the PJJ could address current challenges. These include situations where a young adult dies intestate and only the sibling or half-sibling is entitled to the grant of administration as the principal heir, rather than for example the parent of the deceased.
36. The Judicial Greffier highlighted that such a scenario could cause “*anguish to the parent*” in circumstances where the surviving sibling or half-sibling is estranged or living in another jurisdiction.¹⁹ The Judicial Greffier advised the Panel that the new Article 14 provision under the PJJ would remedy such a scenario by empowering the Judicial Greffier to appoint a grant of administration to a parent or other individual.
37. Additionally, the Judicial Greffier informed the Panel that in situations where a sole surviving parent dies leaving a number of surviving children, a principal heir would be appointed from the surviving children. However, in the event that the principal heir “*pre-deceased*” the parent,²⁰ the functions of the principal heir would then be fulfilled by one of the principal heir’s children, a grandchild of

¹⁷ [Letter – Jersey Law Society Sub-Committee on Succession – Draft Wills and Successions \(Jersey\) Amendment Law 202- 18th February 2026](#)

¹⁸ [Letter – Judicial Greffier – Draft Wills and Successions \(Jersey\) Amendment Law 202- 26th February 2026](#)

¹⁹ [Ibid](#)

²⁰ [Ibid](#)

the deceased. The Judicial Greffier advised that a grandchild of the deceased would then be appointed to administer the deceased's estate.

38. The Judicial Greffier also advised that this scenario could cause “*anguish to the surviving children of the deceased*”, who “*but for the customary law*” would have otherwise been willing to administer the estate on behalf of their deceased parent.²¹ Furthermore, that the proposed amendment to the PJJ would remedy this situation by enabling the Judicial Greffier or Inferior Number of the Royal Court to appoint a grant of administration to a sibling over a grandchild as appropriate.

Conclusion

39. The Panel supports the draft Law and commends the work of the LAP, LOD and Chief Minister in addressing longstanding issues within Jersey's succession laws. It considers the proposed reforms – such as modernising dower rights, introducing gender-neutral rules for identifying a principal heir and updating inheritance rights for whole and half-blood relatives – to be both significant and necessary.
40. The Panel also expresses its appreciation to the JLS, OCCJ and Judicial Greffier for their feedback on the proposals.
41. While recognising the concerns and suggestions for improvement highlighted by the JLS, the Panel believes that there may be scope for a wider, future review of Jersey succession law. However, it is satisfied that the draft Law provides important and necessary improvement to both the WSJL and PJJ.

²¹ [Ibid](#)