



Probates (Resealing) Act, 2021

The Probates (Resealing) Act, 2021 (the **Act**) was Gazetted on 22 June 2021 and took effect from 9 July 2021.

Background

The Act repeals and replaces the Probates (Resealing) Act (Cap. 60) (the **Original Act**), which was enacted in 1937. The purpose of the Original Act was to provide for a simplified procedure to follow in which grants of probate or letters of administration issued by certain foreign courts may be resealed by the courts in the Virgin Islands.

Resealed grants under the Original Act had the same effect as if they were granted by the courts in the Virgin Islands.

Limitation of the Original Act

The main limitation of the Original Act was that it only applied to grants issued by courts of probate in Her Majesty's dominions as that term was defined in the Original Act. This included any British protectorate or protected state and any territory in respect of which a mandate or trusteeship was being exercised by Her Majesty's Government in the United Kingdom or the Government of any part of Her Majesty's dominions.

The result was that the range of jurisdictions whose court-issued grants of probate or letters of administration could be resealed in the Virgin Islands was necessarily limited.

New legislation

The Act maintains the essence of the Original Act but extends the number of jurisdictions whose grants of probate or letters of administration may be resealed by the Virgin Islands courts. The expanded list of jurisdictions includes all Commonwealth countries and territories and also includes Hong Kong and the United States of America. The Act allows the Governor, with the Agreement of Cabinet to extend the list of applicable jurisdictions, by publication of an Order in the Gazette to that effect. A full list of the current jurisdictions that are covered by the Act is included in the table at the end of this legal guide.

The Act applies to the grant of probate or letters of administration, whether issued before or after the coming into force of the Act.

Creditors

A further change introduced by the Act is that it empowers the High Court to require the giving of security in respect of the payment of debts due from the estate of a deceased person to persons residing in the Virgin Islands before resealing any grant of probate or letters of administration.

Conclusion

The Act should greatly increase the number of estates that are able to benefit from the simplified procedure through which grants of probate or letters of administration issued by foreign courts may be resealed by the courts in the Virgin Islands. The availability of a simplified procedure in what is undoubtedly a difficult time will be of great benefit to many and shows that the BVI authorities remain conscious of the needs of the users of BVI companies.

If you would like any further information in relation to these changes, or any assistance or guidance in relation to matters relating to wills or probate, please [email us](#) or reach out to your usual GHP contact.

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List of jurisdictions covered by the Act

Alberta	Anguilla	Antigua and Barbuda	Australia (including provinces)	Bahamas	Barbados	Belize
Bermuda	Botswana	British Antarctic Territory	British Columbia	British Sovereign Base Area in Cyprus	Brunei	Canada (including all provinces, except Quebec)
Cayman Islands	Christmas Islands	Cocos (Keeling) Islands	Cyprus (Republic)	Dominica	England and Wales	Falkland Islands
Falkland Islands Dependencies	Fiji	Gambia	Ghana	Gibraltar	Grenada	Guernsey
Guyana	Hong Kong	Isle of Man	India	Jamaica	Jersey	Kenya
Kiribati	Lesotho	Malawi	Malaysia	Montserrat	Nevis	New Guinea Territory
New Zealand	Nigeria	Norfolk Island	Northern Ireland	Papua New Guinea	St. Helena	St. Kitts
St. Lucia	St. Vincent	Scotland	Seychelles	Sierra Leone	Singapore	Solomon Islands
South Africa	Sri Lanka	Swaziland	Tanzania	Trinidad and Tobago	Turks and Caicos Islands	Tuvalu
Uganda	United States of America	Zambia	Zimbabwe			