

BUSINESS

Law takes an up-to-date look at finances in relationships

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JERSEY'S courts have made a landmark ruling that may change the 'old-fashioned' approach adopted by the

English courts towards dealing with the finances of complex modern relationships. It is likely that in future, natural and adopted children will be treated in law as equals

Advocate Lisa Springate of Bedell Cristin said that the decision in the Shirnovic Trust case was significant because it demonstrated that the Royal Court had 'moved with the times'.

At presentations she has made about the case, Advocate Springate said that the Royal Court judgment made it more likely that natural and adopted children will be treated as legal equals in future.

In 2011, when the trustees were seeking tax advice, the trust deeds were reviewed. It was found that the settlor's signature on the deed relating to Mrs B had not been witnessed, as required by the terms of the deeds. As a result, there was an question of whether Mrs B was ever added as a beneficiary. This was despite her having had received distributions from the trust fund.

Protected

She said that the decision was important because it may alter the attitude of the English courts, which currently say that only the interests of wives and natural children should be protected in law.

In the Shirnovic Trust case, Advocate Springate represented the trustees as well as a 'Mrs B', who had been the girlfriend of the wealthy trust settlor since 1965. In 1990, the settlor took action to add Mrs B to the list of beneficiaries. He died in 2005 and the present trustees took over in 2009.

Advocate Springate argued that the relationship between the settlor and Mrs B was sufficiently close for equity to apply. The lawyer submitted that the settlor had provided for Mrs B financially throughout his lifetime and that his letter of wishes described her as his 'paramount concern'.

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needed to reflect modern family relationships and changing social attitudes. She said that obligations now extended to a much wider category of people, for example illegitimate children, stepchildren and same-sex partners.

At the hearing, the settlor's sister, who was also a trust beneficiary, challenged the representation made by the trustees. While both sides agreed that the equitable doctrine existed, the extent of its application was in dispute.

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Unconventional

The counter argument was that the class of persons who may claim this relief was closed, with only children and a wife falling within the consideration.

The court decided that despite the unconventional nature of the relationship, the settlor considered himself under a moral obligation to provide for Mrs B after his death as well as during his lifetime.

The equitable doctrine was applied and it was

declared that Mrs B was validly added as a beneficiary from the date of the 1990 deed.

In delivering the court's verdict, the Bailiff, Sir Michael Birt, said that the court believed there was every reason to develop the principle to take account of modern standards.

'We hold that under Jersey law, the principle may operate in favour of any person for whom the donee of the power is under a natural or moral obligation to provide. That will be a matter of fact to be decided in each case,' said Sir Michael.



Advocate Lise Springate says that the decision in the Shirnovic Trust case may alter the attitude of the English courts



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Greenlight to open a new office in Guernsey

JERSEY-based business transformation firm Greenlight is to open an office in Guernsey. Managing director Eliot Lincoln said that having a permanent Guernsey base would greatly reduce pan-island costs. He said that the company's operations in Guernsey were limited as it has no resident team. The Guernsey office will be

run by consultant Sarah Gaudin, who has previously worked with Walbrook, Mourant, and Barclays Wealth. Greenlight is managing change projects for corporations across the Channel Islands, the UK and Europe. Clients include Generali Worldwide, the States of Jersey, Apax in the UK and German-based LR Health and Beauty.

Consistency sought on regulatory powers

THE financial regulator wants to change a variety of laws as part of an review of the regulatory process.

The Jersey Financial Services Commission has started a consultation process on the proposed changes. Part of the process is designed to improve consistency in the legislation

across all sectors of the industry. Under the proposals, where the need for change has arisen in one area, the opportunity has often been taken to consider and amend corresponding provisions in other laws.

The detail of the proposals can be found at the www.jerseyfsc.org website.

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