

## Registration under the Charities (Jersey) Law 2014

Service area / [Trusts and Private Wealth](#)

Location / [Jersey](#)

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### Charities law in Jersey

The charities law of the island of Jersey was updated in 2014 with a phased introduction of various statutory provisions under the Charities (Jersey) Law 2014 (the Charities Law) and related regulations, the last of which took effect on 1 January 2019.

Amongst other things the Charities Law sets out the test to determine what qualifies as a charity (see the Appendix for additional information about the island charity test), it established an office of the Jersey Charity Commissioner (the Commissioner) and provides for a registration process by which an entity (be it a trust, foundation, a company or otherwise) may apply to be registered as a charity.

If any entity undertaking charitable activities concludes that the benefits gained by registering under the Charities Law are not sufficient to warrant registration the entity may choose not to register but there are practical and tax consequences which flow from that decision (as to which, please see below).

### Types of registration

The charities register is divided into three different sections - general, restricted and historic.

- The general section will be for all active charities save for those which qualify as restricted charities. Charities on the general section will be obliged to disclose all the information included on the register which will be most of the information submitted with the application.

- An entity will be permitted to be listed in the restricted section if it is a charity which does not solicit donations from the general public, for example a 'private' charity set up by a family using just that family's money.
- The historic section will be for all charities which have ceased their activities (whether they were general or restricted charities initially).

The restricted section of the register was deliberately included as a key feature of the Charities Law as the island's authorities recognised that many private individuals might wish to establish charity entities for their own philanthropic purposes and those individuals would be discouraged from using Jersey as an administrative centre for those entities if there are onerous disclosure requirements.

Assuming that an entity will not be soliciting donations from the public, it is likely that it would fall into the restricted section of the register. If so, less of the information on the register would be available to the general public, only the entity's registration number, the registered charitable purpose statement and public benefit statement and an explanation of why the charity is in the restricted section of the register would be in the public domain.

If a charity on the restricted section of the register solicits donations from the public it will be moved to the general section.

There is no fee for registration.

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## Advantages of registration

The main advantages of registration are that the charitable entity would be able to call itself a 'charity' and to use the terms 'charity' and 'charitable' in its correspondence and literature.

A registered entity is also entitled to full charitable tax relief in Jersey which includes an exemption from Jersey income tax, relief from goods and services tax (like VAT in England or TVA in France but, in Jersey, is charged at 5%) and reduced stamp duty and land transaction taxes.

## Registration

The Commissioner receives applications for registration on the charities register and this can be done online ([see here](#)).

To be registered, an entity will need to supply the Commissioner with the information below:

- a copy of its written constitution
- evidence that it is a Jersey entity and that it has its principal address in Jersey
- a draft statement of its registered charitable purposes and draft registered public benefit statement
- certain financial information, including the most recent financial accounts if available and
- the names of the governors of the charity – that is to say, those who manage the charity's activities.

The Commissioner needs to be satisfied that the entity passes the charity test and with the proposed name to be entered on the register for the entity. The Commissioner will have regard to any remuneration received by the governors (that is the directors, trustees or council members of the entity) and to the number of governors and the extent, if any, to which they are connected to each other.

If the Commissioner is satisfied with the information provided, he will enter the name of the charity on the relevant section of the register.

## Following registration

Once registered, an entity is subject to the oversight of the Commissioner. A registered charitable entity can only change from one charitable purpose to another with the permission of the Commissioner regardless of the powers contained in the entity's constitution. It can only use its property in accordance with its registered charitable purpose and public benefit statement which cannot be changed without the Commissioner's permission.

A registered entity also has certain functions to fulfil:

- it must submit an annual return of certain information
- it must inform the Commissioner about changes to information on the register or changes to its constitution or
- inform him about certain reportable matters set out at Article 19 of the Charities Law (for example, bankruptcy, misconduct, disqualification of governors).

The Commissioner and the Royal Court of Jersey can intervene where there is misconduct in the administration of the charity or to secure its property.

## Governors

Regardless of the terms of the constitution, a governor of a registered charity must seek in good faith to ensure that the entity acts in a manner consistent with its registered charitable purposes and registered public benefit statement and complies with any duty imposed on it by the Charities Law.

A governor is required as a matter of Jersey law to act with due diligence and prudence and to the best of his ability.

## To register or not?

The process of registration is reasonably involved and on a practical level will introduce, following successful registration, certain additional reporting obligations, for example to inform the Commissioner of changes to the constitution documents and to file annual accounts.

If it is not intended that an entity will solicit donations from the public and/or trade commercially in Jersey, the advantage to be gained by permitted use of the terms 'charity' and 'charitable' to the public at large will be limited. Similarly, if little or no income will be generated to a significant level in or from within the island of Jersey, an entity will neither provide nor receive goods and services in Jersey and will not acquire any immovable property in the island, the fiscal advantages arising from registration may also be minimal.

It is worth considering whether registration of an entity as a Jersey charity under the Charities Law would however provide any related tax benefits outside of Jersey, for example that non-Jersey donations to the entity are more tax efficient in the country of the donor.

For further information in the first instance please contact us.

Continued

## Appendix

### The Charity Test

(extracted from Article 5 of the Charities Law)

- (1) An entity meets the charity test if –
- (a) all of its purposes are –
    - (i) charitable purposes, or
    - (ii) purposes that are purely ancillary or incidental to any of its charitable purposes; and
  - (b) in giving effect to those purposes, it provides (or, in the case of an applicant, provides or intends to provide) public benefit in Jersey or elsewhere to a reasonable degree

### Meaning of Charitable Purposes

(extracted from Article 6 of the Charities Law)

For the purposes of this Law, the charitable purposes are –

- (a) the prevention or relief of poverty;
  - (b) the advancement of education;
  - (c) the advancement of religion;
  - (d) the advancement of health;
  - (e) the saving of lives;
  - (f) the advancement of citizenship or community development;
  - (g) the advancement of the arts, heritage, culture or science;
  - (h) the advancement of public participation in sport;
  - (i) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended;
  - (j) the advancement of human rights, conflict resolution or reconciliation;
  - (k) the promotion of religious or racial harmony;
  - (l) the promotion of equality and diversity;
  - (m) the advancement of environmental protection or improvement;
  - (n) the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage;
  - (o) the advancement of animal welfare;
  - (p) any other purpose that may reasonably be regarded as analogous to any of the purposes listed in sub-paragraphs (a) to (o).
- (2) For the purposes of paragraph (1) –
- (a) in paragraph (1)(d), “the advancement of health” includes the prevention or relief of sickness, disease or human suffering;
  - (b) paragraph (1)(f) includes –
    - (i) rural or urban regeneration, and
    - (ii) the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of registered charities;
  - (c) in paragraph (1)(h), “sport” means sport that involves physical skill and exertion;
  - (d) paragraph (1)(i) applies only in relation to recreational facilities or activities that are –
    - (i) primarily intended for persons who have need of them by reason of their age, ill-health, disability, financial hardship or other disadvantage, or
    - (ii) available to members of the public at large or to male or female members of the public at large;
  - (e) paragraph (1)(n) includes relief given by the provision of accommodation or care;
  - (f) for the purposes of paragraph (1)(p), the advancement of any philosophical belief (whether or not involving belief in a god) is analogous to the purpose set out in paragraph (1)(c).

## Meaning of Public Benefit

(extracted from Article 7 of the Charities Law)

- (2) *The person determining the question must have regard to –*
- (a) *how any –*
    - (i) *benefit gained or likely to be gained by members of the entity or any other persons (other than as members of the public), and*
    - (ii) *disbenefit incurred or likely to be incurred by the public, in consequence of the entity exercising its functions, compares with the benefit gained or likely to be gained by the public in that consequence; and*
  - (b) *if benefit is, or is likely to be, provided to a section of the public only, whether any condition on obtaining that benefit (including any charge or fee) is unduly restrictive.*
- (3) *The person determining the question must not –*
- (a) *presume any particular charitable purpose to be for the public benefit; or*
  - (b) *treat one particular natural person or a group of identified natural persons as being a section of the public, and accordingly must not treat an entity that benefits only such a person or persons as providing public benefit.*



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### FIND US

Carey Olsen Jersey LLP  
47 Esplanade  
St Helier  
Jersey JE1 0BD  
Channel Islands

T +44 (0)1534 888900

E [jerseyco@careyolsen.com](mailto:jerseyco@careyolsen.com)



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