

Jersey: Charity and Philanthropy

Last reviewed: February 2024

Jersey has an established reputation for philanthropic structuring and, increasingly, wealthy individuals and families are making philanthropy an integral part of their wealth planning. As part of a drive to encourage charitable structuring, Jersey passed the Charities (Jersey) Law 2014 (the **Charities Law**) which created the role of the Charity Commissioner who has responsibility for a public register of charities.

The Charities (Jersey) Law 2014

The law of charity has an interesting history, deriving, in English law, from the Statute of Charitable Uses 1601, commonly referred to as the Statute of Elizabeth. The law developed in the case of *Income Tax Special Commissioners v Pemsel* [1891] AC 531, where Lord Macnaghten held that for there to be charity, two conditions must be fulfilled:

- the purpose must be recognised as charitable and
- the purpose must be for public benefit.

The Pemsel test was endorsed by the Jersey Royal Court in *Meaker v Picot* [1972] JJ 2161, and informed the jurisprudence of Jersey charity law for many years. However, the Charities Law passed in 2014 sets out a new charity test.

An entity will satisfy the test and may apply to be registered under the Charities Law as a charity if (1) all of its purposes are charitable purposes or purposes that are purely ancillary or incidental to any of its charitable purposes and (2) in giving effect to those purposes it provides a public benefit (in Jersey or elsewhere) to a reasonable degree. The Charities Law also provides for the creation of the office of the Jersey Charity Commissioner, a public register of charities and a charity tribunal.

Why register a charity in Jersey?

Registering a charity in Jersey under the Charities Law is not compulsory for any entity. However, registering can be attractive for the following reasons:

Choice in relation to publicity

The Commissioner maintains a register of charities in accordance with the Charities Law. The register is comprised of a general section, a restricted section and a historic section.

Charities intending to solicit donations from the public will be registered entities in the general section. This section includes details of the charity's:

- registration number
- name
- address
- governors
- charitable purpose statement and
- public benefit statement.

It also includes details as to whether:

- the charity pays or intends to pay its governors (the Charities Law does not prevent reimbursement of expenses, paying governors for other services or paying staff), and
- the charity has submitted its annual return.

Charities which are privately funded (say by a wealthy family) can request to be registered entities in the restricted section. This section includes details of the charity's:

- registration number
- registered charitable purpose statement and
- registered public benefit statement,

together with an explanation as to why the charity is on the restricted section.

Note however that the name of a charity in the restricted section (which might include the name of the donor), together with details of its governors, are not available for inspection by the public.

The historic section contains details of de-registered charities and includes details as to:

- the former registration number of the charity
- the name of the charity
- reasons for de-registration and
- the dates of registration and de-registration.

Oversight

The Commissioner provides guidance, oversight and supervision of the sector.

Standards

There are statutory requirements for the governors of a charity (eg trustees, directors or foundation council members) to ensure that the charity acts in accordance with the Charities Law, pursues the stated charitable purposes and delivers public benefit.

The duties owed by governors are referred to in our separate [guide](#).

Modern framework

The definition of 'charitable purposes' in the Charities Law is wide ranging, and includes the advancement of public participation in sport.

How to register a charity in Jersey

An entity that meets the charity test may apply to be a registered charity if it has a written constitution and is either a Jersey entity or carries out substantial activity in Jersey.

An entity that wishes to register can prepare for registration by ensuring that:

- its written constitutional documentation is up to date and reflects its modus operandi
- a statement of charitable purposes is prepared, appropriate and ready for filing
- a statement of intended public benefit is prepared, appropriate and ready for filing
- it retains the data which will enable it to file accounts in the future.

Entities which include objects which are not charitable under the Charities Law but wish to seek donations from the public in future may be able to adjust their objects in such a manner that those objects do not fall outside the charity test as described above.

Cost of registration

There is no charge for being registered as a charity, or any annual charge for remaining on the register, but there is a time commitment in preparing and filing returns in compliance with the Charities Law. For details on the reporting obligations for registered charities of core financial information and governor and connected person payments see our separate [guide](#).

Tax treatment

There is no requirement for charitable organisations to become registered charities. However, only a charity registered under the Charities Law will be able to refer to itself as a 'charity' and receive tax relief in Jersey by virtue of its charitable status.

For more information regarding the tax benefits of being on the register please see our separate [guide](#).

Charity or philanthropy?

The Charities Law provides that the expression 'Jersey charity' is a controlled expression which entities and individuals must not use unless that entity is:

- a registered charity
- a Jersey entity and
- is wholly managed or controlled from within Jersey.

Charity and charitable have defined legal meanings under the Charities Law whereas philanthropy and philanthropic do not. At least in Jersey, charity is a subset of philanthropy. The below discussion of philanthropic structures may, depending on the context, apply equally to charitable structures.

Why form a philanthropic structure in Jersey?

Jersey is a perfect jurisdiction for the formation and administration of philanthropic structures for the following reasons:

- it is a self-governing British Crown Dependency with complete autonomy over its domestic affairs, including taxation, and has a stable political and economic climate
- it is readily accessible from the UK and is in the UK time zone
- it provides a tax neutral environment for the running of philanthropic structures, including exemptions from income tax and goods and services tax and
- the trusts, foundations and companies laws (see below) all emphasise flexibility, so structures can be tailored to the specific needs of the philanthropist and their family.

Effective structuring

The following vehicles are well suited to supporting philanthropic ventures:

Trusts

The Trusts (Jersey) Law 1984 allows for both charitable and non-charitable purpose trusts. As such, it is possible to establish a trust for philanthropic purposes which are not technically charitable, or a trust for purposes that are partly personal and partly philanthropic.

For technical reasons, where the trust's purposes are wider than those permitted before the passing of the Charities Law, it is necessary for a person (known as an enforcer) to be appointed to enforce the purposes of the trust.

Jersey also has considerable experience of Islamic finance and Shariah compliant trust structures which may be relevant for some philanthropic activities.

Foundations

The Foundations (Jersey) Law 2009 allows for the creation of a foundation for objects which are charitable, non-charitable, or both charitable and non-charitable. As such, a foundation can be incorporated to pursue a philanthropist's chosen causes whether or not they are technically charitable. Foundations can be established with very wide objectives and have features which resemble those in both companies and trusts.

Companies limited by guarantee

Companies limited by guarantee are often used for philanthropic purposes as members do not, generally, receive a distribution of profits by way of a dividend, and any profit generated by the company is typically applied to further the purposes for which the company was established.

Funds

Jersey has a strong pedigree as a funds domicile, especially in alternative investment and a number of impact funds have been established on the Island in recent years.

The Non-Profit Organizations (Jersey) Law 2008 (the NPO Law)

An organization (which term includes a trust with a Jersey resident trustee) is a non-profit organization (NPO) for the purposes of the NPO Law if it is established solely or primarily for charitable, religious, cultural, educational, social, or fraternal purposes with the intention of benefiting the public or a section of the public and it raises or disburses funds in pursuance of those purposes (such non-charitable purposes being referred to below as **philanthropic**). This definition will generally capture the following:

- charitable trusts, foundations, companies, and other charitable organizations
- purpose or mixed trusts, foundations, companies, and other organizations if their purposes are primarily charitable or philanthropic.

Since 1 January 2023, NPOs which are established or administered in or from Jersey have had to register with the Jersey Financial Services Commission under the NPO Law. This is separate from and additional to any registration under the Charities Law. NPOs which fall outside the NPO Law definition, such as certain religious or neighbourhood groups, may choose to register but are not obliged to do so.

NPOs are obliged to submit an application in the form required by the Commission, and to give notice of any change within three months. NPOs must also keep financial records and retain them for at least five years.

While the NPO register is not publicly accessible, depending on the legal structure of the NPO (trust, foundation, company etc) certain information may be publicly accessible from other registers. Additionally, if any person so requests, an NPO must provide that person with details of its purposes, objectives, intended activities and legal structure.

The Non-Profit Organisations (Prescribed NPOs – Additional Obligations)(Jersey) Order 2022 defines a prescribed NPO as an NPO that, during the preceding 12 months, has: (a) raised funds exceeding £1,000 from outside Jersey, Guernsey, the Isle of Man, England and Wales and Scotland; or (b) disbursed funds exceeding £1,000 outside those jurisdictions.

Prescribed NPOs have the following additional obligations:

- to prepare annual financial statements
- to have in place appropriate accounting systems and controls
- to keep records that are sufficient to identify any person who owns or controls the NPO
- to keep a record of significant donors who, during the preceding 12 months, donated £10,000 or above; or over 50% of total donations made to the NPO during that period
- to take reasonable steps to:
 - a. identify its associated NPOs and its beneficiaries
 - b. obtain information about the activities of and relationship with each associated NPO and beneficiary
 - c. confirm, so far as possible, that its associated NPOs and beneficiaries are not assisting or being used to assist terrorism or the financing of terrorism.

Contacts

A full list of contacts in our International Trusts & Private Client team who specialise in this area can be found [here](#).

This guide is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this guide, please get in touch with one of your usual contacts. You can find out more about us, and access our legal and regulatory notices at [mourant.com](https://www.mourant.com). © 2024 MOURANT ALL RIGHTS RESERVED