

Jersey: Non-Charitable Purpose Trusts

Last reviewed: February 2025

Jersey law permits a trust to be established with a particular non-charitable purpose stated in the trust instrument and for which there are no ascertainable beneficiaries.

Principal features of Jersey purpose trusts

Enforcer

The trust must have an enforcer, who must be a different person from the trustee. It is the duty of the enforcer to enforce the trust in relation to its non-charitable purposes.

The terms of the trust must provide for the appointment of an enforcer and for the appointment of a new enforcer at any time when there is none.

Purpose

The purpose (i.e. the object towards which the trust property will be applied) needs to be specified in the trust instrument. There are very few limitations on what can be an acceptable purpose save that it must be sufficiently certain, not illegal and not apply to Jersey immovable property (i.e. land or buildings in Jersey). It can include the holding of property (such as shares in a private trust company) or the exercise of functions (such as the exercise of voting rights conferred by shares).

Duration

The trust may exist indefinitely. If there is a termination date, the trust instrument can provide for the trust property to be distributed at that time.

Formalities

There are no particular formalities for the creation of a purpose trust. There is no requirement for the trust to be registered in Jersey or for the trust instrument, or its particulars, to be filed with any governmental or other authority.

Beneficiaries

A purpose trust, by definition, has no ascertainable beneficiaries although it is still possible to benefit individuals, legal entities or charities if the trust instrument allows for that.

Trustees

There is no requirement that the trustees be resident in Jersey.

Hybrid or mixed trusts

Jersey law permits a trust to have both a purpose and beneficiaries.

Uses of Jersey purpose trusts

The potential uses for purpose trusts in Jersey are not limited but include:

Private trust companies

Purpose trusts are frequently formed to incorporate and hold shares in a private trust company to act as trustee of one particular trust or a group of trusts, eg for a specific family.

Quasi-charitable purposes

Settlers often wish to use part of their wealth to further worthy, philanthropic or political causes which might not fall within the narrow legal definition of charity. A Jersey purpose trust can be utilised instead, allowing those wider causes to be benefitted.

Special purpose vehicles (SPVs)

In securitisation and finance transactions, a Jersey purpose trust can be used instead of a charitable trust to hold the shares in an 'orphan' special purpose vehicle.

A purpose trust might, for example, stipulate the purpose of the trust as being to establish an underlying company and to enter into agreements relating to a specific transaction. Often there will be no net assets left within the structure after the completion of the transaction and discharge of associated costs, but where there are surplus assets (usually the shares in the underlying company or the proceeds of the liquidation of those shares) they can be distributed to beneficiaries or charitable purposes on the termination of the trust.

Tax treatment

Purpose trusts are entirely free of tax in Jersey whether or not the trustees are resident in Jersey, provided only that no Jersey resident (other than a charity) has an interest in the trust and there is no Jersey source income (bank interest excepted).

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,

where there is an intention of benefiting the public or a section of the public (though that would not usually be the case for a purpose trust established to hold a private trust company or SPV).

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. Any purpose trusts falling within the definition of NPO will, therefore, have to register with the Commission.

Fuller details of the NPO Law are set out in our guide 'Jersey: the Charities and NPO Laws'.

Contacts

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

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