

Jersey: the Charities and NPO Laws

Last reviewed: February 2024

Jersey has a modern charities law, the Charities (Jersey) Law 2014 (the **Charities Law**). As a result of the Charities Law, charities can be registered in Jersey and are subject to regulation by the Charity Commissioner. In addition the Non-Profit Organizations (Jersey) Law 2008 (the **NPO Law**) is likely to be relevant when establishing or administering a charity.

Background

Jersey has a robust and sophisticated framework for charities as part of Jersey's offering as a centre of excellence for international philanthropic structuring.

The Charities Law introduced a public register of charities, created the office of an independent Charity Commissioner and modernised the test of what may be 'charitable'.

The charity test

The Charities Law sets out the test of what may be charitable. An entity will satisfy the test and be regarded 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.

Charitable purposes defined

In relation to the first part of the charity test (whether an entity will be regarded as having a charitable purpose) the Charities Law details the purposes that are considered to be charitable as follows:

- the prevention or relief of poverty
- the advancement of education
- the advancement of religion
- the advancement of health (which includes the prevention or relief of sickness, disease or human suffering)
- the saving of lives
- the advancement of citizenship or community development (which includes rural or urban regeneration, and the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities)
- the advancement of the arts, heritage, culture or science
- the advancement of public participation in sport (which means sport that involves physical skill and exertion)
- 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 (which 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 members of the public at large)

- the advancement of human rights, conflict resolution or reconciliation
- the promotion of religious or racial harmony
- the promotion of equality and diversity
- the advancement of environmental protection or improvement
- the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage (which includes relief given by the provision of accommodation or care)
- the advancement of animal welfare
- any other purpose that may reasonably be regarded as analogous to any of the purposes listed above.

Note that the purpose of advancing a political party or promoting a candidate for election to any office, in Jersey or elsewhere, is excluded as a charitable purpose.

Public benefit

In relation to the second part of the charity test (whether an entity provides a public benefit) the Charities Law provides that no particular charitable purpose is presumed to be for the public benefit. In addition, when considering whether an entity provides a public benefit, a comparison should be made between, on the one hand, benefits gained by members of the entity and disbenefits incurred by the public and, on the other hand, benefits gained by the public.

Jersey Charity Commissioner

The Charities Law establishes the Jersey Charity Commissioner as a corporation sole. The Commissioner is appointed by Jersey's Chief Minister. The Commissioner's general functions are as follows:

- to administer the charity test and the charity register
- to supervise the compliance by charity governors with their duties
- to seek to enforce the requirements as to the restricted use of 'charity', 'Jersey charity', 'charitable' and related terms (as to which, see below)
- to publish and maintain guidance on the operation of the Charities Law, including guidance on the duties of governors and guidance on the charity test
- to assist other persons to discharge their functions under the Charities Law in relation to registered charities and entities with charitable purposes, particularly by giving information about registered charities and other entities, and
- generally to encourage, facilitate and monitor compliance of registered charities with the Charities Law.

Voluntary registration

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

Charity register

The Commissioner is required to establish and maintain a register of charities in accordance with the Charities Law. The register is composed of a general section, a restricted section and an historic section.

General Section

Charities intending to solicit donations from the public must 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.

Restricted section

Charities which are privately funded (say by a wealthy family) will generally be registered entities in the restricted section. This section includes details as to the entity's:

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

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

The name of a charity on the restricted section (which might include the donor's name) and its governors is not available for inspection by the public.

Historic Section

This section contains details of de-registered charities (which includes details as to the former registered number of the charity and its name, the reasons for de-registration and the dates of registration and de-registration).

Use of the expressions 'charity', 'Jersey charity' and related terms

The Charities Law sets out a prohibition against the unauthorised use of the expression 'charity', 'Jersey charity' or referring to an entity as being 'registered by the Commissioner', if it is not.

This prohibition does not restrict a 'foreign excepted charity' from referring to itself as a charity provided that it is:

- established under the law of either the United Kingdom or the law of a jurisdiction that is prescribed for this purpose by delegated legislation and
- entitled under the law of that jurisdiction to refer to itself in that jurisdiction as a 'charity' (or by any equivalent term in a language other than English that is used in the jurisdiction) and
- managed wholly or mainly from the jurisdiction under the law of which it is established and
- not a registered Jersey charity.

There are no prohibitions in the Charities Law against an entity including the word 'charitable' in its name.

Governors of registered charities

The Charities Law imposes general duties and some regulatory obligations upon the governors of charities. For these purposes 'governor' means:

- in the case of a trust, a trustee;
- in the case of a foundation, a member of the council
- in the case of a company, its directors
- in the case of an unincorporated entity, the members of the management committee, and
- in any other case, the person who, under the constitution of the entity, has the general control and management of its administration.

The general duties of governors of registered charities are outlined in the Charities Law. Unless the law of the entity in question prescribes a more onerous level of duty, the default duties are set to trustee standards, that is to say, a governor must:

- act (i) with due diligence (ii) as would a prudent person and (iii) to the best of the governor's ability and skill, and
- observe the utmost good faith.

Governors should seek, in good faith, to ensure that the charity acts consistently with its registered charitable purpose and registered public benefit statement and that it complies with the Charities Law.

The remuneration of governors must be declared in an application by an entity to register under the Charities Law.

The Non-Profit Organizations (Jersey) Law 2008

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](#).

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