

Innovative system of charity registration in Jersey

With effect from 1 May 2018, it will be possible to register a charity in Jersey. The Island's innovative system of charity registration:

- **offers two alternative categories of registration, with the choice impacting on the accessibility of information on the public register;**
- **provides for registration to be voluntary, albeit relevant in determining entitlement to certain charitable tax reliefs and to the use of the term "charity".**

Jersey: a jurisdiction of choice for philanthropy

The new registration system adds to the established list of factors which combine to make Jersey an attractive jurisdiction for philanthropy:

- flexibility: trusts and foundations are the two key structures used for philanthropy in Jersey, and the Island's legislation for both recognises the importance of flexibility, so that structures can be tailored to suit individual requirements;
- experience and expertise: Jersey has in excess of 13,000 professional advisers, with expertise developed over more than 50 years;
- robust regulatory regime: Jersey offers a robust and highly regarded regulatory regime;
- rule of law: Jersey has a well-respected and independent judicial system;
- central time zone: the Island's central time zone makes it accessible around the globe;
- proximity to the UK: with frequent daily flights between Jersey and the UK, choosing Jersey makes practical and logistical sense for those with family connections or business interests in London or elsewhere in the UK.

Registration choices

The Charities (Jersey) Law 2014 (the "Charities Law") allows for "entities" (including the trustees of a Jersey trust and a Jersey foundation) which comply with the statutory charity test to apply for registration. An entity will meet the charity test if:

- all of its purposes (as defined) are charitable purposes or purposes that are purely ancillary or incidental to any of its charitable purposes; and
- in giving effect to those purposes, it provides public benefit in Jersey or elsewhere to a reasonable degree.

The Charities Law contains an extensive list of charitable purposes. It also provides for other purposes to be treated as charitable if they can reasonably be regarded as analogous to those which are listed, and allows for further purposes to be added in the future.

There is to be no presumption that any particular charitable purpose is for the public benefit. To determine whether the public benefit element of the charity test is satisfied, Jersey's Charity Commissioner will:

- compare the benefit to be gained by the public with the benefit to be gained by members of the entity itself or any other people (other than as members of the

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- public) and any disbenefit (harm) likely to be incurred by the public;
- consider whether any condition (such as a charge or a fee) on obtaining a benefit which is only provided to a section of the public is unduly restrictive.

An entity wishing to register will provide prescribed information to the Charity Commissioner and, once registered, will be given a certificate of registration, confirming its registered name and number and the date of its registration.

One of the innovative features of the Charities Law is that it allows an entity to choose whether to apply for registration on the general section or on the restricted section of the register.

The general section is intended for those entities which would like to register as a charity, to be able to call themselves "charities", to raise funds from the public, and to have the benefit of the full range of Jersey's charitable tax reliefs.

One of the key functions of the Charities Law is to protect public trust and confidence in registered charities. Consistent with this, the general rule will be that all of the information on the general section of the register will be publicly available, so that potential donors and volunteers will have access to relevant information to inform their decisions.

Recognising that some charities will not seek donations from the public and will instead be funded with a family's own moneys - and that some philanthropists may prefer to maintain a lower profile in relation to their giving initiatives - the Charities Law also offers the option of registration on the restricted section. This still entitles the entity to be called a "charity" and to have full access to Jersey's charitable tax reliefs. However, only a limited amount of information (including the entity's registered number but not its name) will be accessible on the public register.

Another feature of the Charities Law is that, whether an entity is entered on the general section or the restricted section, the Charity Commissioner will be able to designate a specified matter as not being a public part of its register. This power will be available if the Charity Commissioner considers that the safety or security of any person, property or premises would be significantly put at risk by public access to the specified matter.

Voluntary registration: use of the term "charity"

Registration as a charity will be voluntary, albeit relevant in determining entitlement to certain charitable tax reliefs and to use the term "charity".

Registered charities will be eligible for the full range of Jersey charitable tax reliefs:

- exemption from income tax;
- entitlement to recover income tax on certain donations received by way of lump sum payment or pursuant to a deed of covenant;
- entitlement to reclaim any goods and services tax ("GST") paid and exemption from the requirement to register for GST;
- entitlement to reduced rates of stamp duty and land transaction tax.

Whilst the system for registration of charities will open on 1 May 2018, the provisions in the Charities Law relating to taxation and the use of the word "charity" will not be brought into force until 1 January 2019. The idea is that this delay will allow sufficient time for applications for registration to be made before these provisions become effective.

There will also be transitional arrangements: if an entity was entitled to the benefit of a tax exemption under Article 115(a) of the Income Tax (Jersey) Law 1961 immediately before 1 January 2019, and has submitted its application for registration as a charity (and that application has not been finally determined) before 1 January 2019, the entity will continue to receive that benefit until the end of the following tax year (31 December 2019).

A point to note is that, for trustees or foundations not wishing to register as charities under the Charities Law, exemption from Jersey income tax will be available on satisfaction of certain conditions. In addition, tax neutrality is to be preserved for structures with no beneficiaries in Jersey and no income deriving from land and buildings in Jersey.

With effect from 1 January 2019, the general rule will be that only registered charities (and certain overseas charities) will be able to refer to themselves as a "charity". For those entities choosing not to register, it will still be possible to use the term "charitable".

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Closing thoughts

With the introduction of an innovative registration system for charities, Jersey is well-positioned to operate as a centre of excellence for philanthropic wealth structuring:

- The Island's trusts and foundations legislation places a strong emphasis on the importance of flexibility, so that structures can be tailored to each philanthropist's own requirements.
- There is a choice in relation to publicity. For those not wishing to have a public profile in relation to their philanthropy, trusts can be an attractive choice as there is no public registration of trusts in Jersey. For those who are keen to have a public profile, there is a range of registration options to choose from. For some families, registration as a foundation will be appropriate; for others, registration (of a trust or foundation) as a charity under the Charities Law, either on the general section or on the restricted section, will be preferred.
- Jersey is a tax neutral environment in which to establish structures, with Jersey tax exemptions also available subject to compliance with relevant conditions.

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For further information, please contact:

Jersey



Zillah Howard (author)
Partner
T +44 (0)1534 814734
E zillah.howard@bedellcristin.com



Edward Bennett
Partner
T +44 (0)1534 814725
E edward.bennett@bedellcristin.com