



Jersey

CHARITIES (JERSEY) LAW 2014

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CHARITIES (JERSEY) LAW 2014

Arrangement

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Jersey

CHARITIES (JERSEY) LAW 2014

A LAW to establish a commissioner and register of charities, to impose duties on governors of charities, to regulate use of the term “charity” and for related purposes

Commencement [[see endnotes](#)]

PART 1

INTERPRETATION

1 Interpretation

In this Law, unless the context otherwise requires –

“annual return” means a return sent under Article 13(7);

“charitable purpose” has the meaning given by Article 6;

“Commissioner” means the person for the time being appointed to hold the office of the Jersey Charity Commissioner established by Article 3;

“company” means a company registered under the Companies (Jersey) Law 1991¹, or an existing company within the meaning of that Law, and in relation to a company the expressions “director”, “memorandum” and “articles of association” have the same meanings as in that Law;

“Comptroller” has the meaning given by the Income Tax (Jersey) Law 1961²;

“constitution” has the meaning given by Article 2(4);

“constitutional Law” has the meaning given by Article 2(5);

“court”, in the expression “the court”, means the Royal Court;

“court-approved fidéicomis” means a fidéicomis created under Article 3 of the Loi of 1862, or to which the court has extended the benefits of that Loi under Article 17 of that Loi;

“donation” is to be construed in accordance with the Order made under Article 9(3)(b)(ii);

“entity” has the meaning given by Article 2(1);

“foundation” means a foundation incorporated under the Foundations (Jersey) Law 2009³, and “charter”, “regulations” and “council member” have, in relation to a foundation, the same meanings as in that Law;

“general section” means the section of the register that is to be distinguished from the restricted and historic sections under Article 8(2);

“governor” in relation to an entity (including a registered charity) has the meaning given by Article 2(7);

“incorporated 1862 association” means an association incorporated under Article 4 of the Loi of 1862;

“JFSC” means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998⁴;

“Jersey entity” has the meaning given by Article 2(3);

“Loi of 1862” means the Loi (1862) sur les teneures en fidéicomis et l’incorporation d’associations⁵;

“Minister” means the Chief Minister;

“misconduct” has the meaning given by Article 2(10), and a reference to a governor engaging in misconduct is to be read in accordance with Article 18(4);

“prescribed” and “specified” mean prescribed or specified in an Order or Regulations, as the case may be;

“property” has the meaning given by the Trusts (Jersey) Law 1984⁶;

“publish”, in respect of any information, means publish in a manner that, in the opinion of the person publishing, is likely to bring the information or how the information may be obtained to the attention of the public or of those affected by the information;

“purpose”, in relation to an entity, has the meaning given by Article 2(6);

“register” means the register kept by the Commissioner under Article 8, or (as a verb) to enter an entity on that register, and “registration” and “deregistration” are to be construed accordingly;

“registered charitable purposes” has the meaning assigned by Article 8(3)(e);

“registered charity” means an entity entered for the time being in the general section or the restricted section of the register;

“registered public benefit statement” has the meaning assigned by Article 8(3)(f);

“regulated financial services business” means business for which a person –

- (a) is registered under the Banking Business (Jersey) Law 1991⁷;
- (b) holds a permit or certificate under the Collective Investment Funds (Jersey) Law 1988⁸;
- (c) is registered under the Financial Services (Jersey) Law 1998⁹; or
- (d) is authorized by a permit under the Insurance Business (Jersey) Law 1996¹⁰;

“reportable matter” has the meaning given by Article 19;

“required steps notice” means a notice served under Article 27;

“restricted section” means the section of the register that is to be distinguished from the general and historic sections under Article 8(2);

“solicit” is to be construed in accordance with the Order made under Article 9(3)(b)(i);

“tribunal” means the Charity Tribunal established by Article 32;

“trust” means a trust over which the court has jurisdiction under Article 5 of the Trusts (Jersey) Law 1984¹¹.

2 Definition of entity and related terms

- (1) In this Law, unless the context otherwise requires, “entity” means –
 - (a) the person or persons, taken together, who are the trustees of a trust;
 - (b) without prejudice to the generality of sub-paragraph (a), the person or persons, taken together, who are the fidéicommissaires of a court-approved fidéicommiss;
 - (c) an incorporated 1862 association;
 - (d) a foundation;
 - (e) a body corporate established –
 - (i) by an enactment,
 - (ii) by Act of the States, or
 - (iii) by Royal Charter, in relation to Jersey;
 - (f) a company;
 - (g) a body incorporated under, but not by, any enactment other than the Companies (Jersey) Law 1991¹²;
 - (h) a body incorporated under, but not by, an Act of the United Kingdom Parliament or Order in Council, as such Act or Order is extended to or applicable in Jersey;
 - (i) the persons, taken together, who constitute for the time being an unincorporated body or association of persons, other than a partnership and other than the trustees of a trust;
 - (j) an entity that is substantially similar to an entity mentioned in any of sub-paragraphs (a) to (h), but is established under the law of a jurisdiction other than Jersey.
- (2) The Minister may by Order add sub-paragraphs to paragraph (1).
- (3) For the purposes of this Law, an entity is a “Jersey entity” if –
 - (a) it falls within any of sub-paragraphs (a) to (h) of paragraph (1); or
 - (b) it is an unincorporated body or association of persons falling within paragraph (1)(i), in respect of which –

- (i) the law governing the relationship between the persons constituting the body or association, in that capacity, is the law of Jersey, and
 - (ii) at least one governor is a natural person resident in Jersey, or is itself a Jersey entity by virtue of sub-paragraph (a).
- (4) In this Law, unless the context otherwise requires, “constitution” in relation to an entity means –
 - (a) in the case of a trust the terms of the trust;
 - (b) in the case of a court-approved fidéicomis, the minute of the contract annexed to the application to the court for the creation of the fidéicomis, any other documents so annexed, and any authorisation granted by the court under Article 10 of the Loi of 1862 in respect of the fidéicomis;
 - (c) in the case of an incorporated 1862 association, the Act of the court incorporating it under Article 4 of the Loi of 1862, and the object and rules approved or modified under that Article;
 - (d) in the case of a foundation, the charter and regulations of the foundation;
 - (e) in the case of a company, the memorandum and articles of association of the company;
 - (f) in the case of a body corporate falling within paragraph (1)(e), the enactment, Act of the States or Royal Charter that established the body corporate;
 - (g) in any other case, any instrument or instruments (in whatever form) that establish the entity or give it any powers.
- (5) In this Law, unless the context otherwise requires, “constitutional Law” means –
 - (a) in relation to an entity that is a trust, the Trusts (Jersey) Law 1984¹³;
 - (b) in relation to an entity that is a court-approved fidéicomis or an incorporated 1862 association, the Loi of 1862;
 - (c) in relation to an entity that is a foundation, the Foundations (Jersey) Law 2009¹⁴;
 - (d) in relation to an entity that is a company, the Companies (Jersey) Law 1991¹⁵; and
 - (e) in relation to an entity that is a body incorporated by (but not under) any other Law, that Law.
- (6) In this Law, unless the context otherwise requires, “purpose” in relation to an entity means –
 - (a) in the case of a trust, the benefit of its beneficiaries or any other purpose mentioned in Article 2(b) of the Trusts (Jersey) Law 1984¹⁶ by virtue of which the trust exists, as specified in its constitution;
 - (b) in the case of a court-approved fidéicomis, or of an incorporated 1862 association, the objects for which it was created

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- or incorporated, or that were subsequently authorized under Article 10 of the Loi of 1862;
- (c) in the case of a foundation, the objects specified in its charter or its regulations; or
 - (d) in the case of any other entity, a purpose to which that entity's property may lawfully be applied, other than by virtue of an order of a court, in accordance with the powers of the entity as set out in its constitution (including on its winding up or other termination).
- (7) In this Law, unless the context otherwise requires, "governor" in relation to an entity means –
- (a) in the case of a trust or fidéicomis, a trustee or fidéicommissaire of the trust or fidéicomis;
 - (b) in the case of a foundation, a member of the council of the foundation;
 - (c) in the case of a company, a director of the company;
 - (d) in the case of a relevant unincorporated entity, a person who is a member of the management committee of the entity; or
 - (e) in any other case, a person who, under the constitution of the entity, has the general control and management of the administration of the entity.
- (8) For the purpose of paragraph (7)(d) a relevant unincorporated entity is an unincorporated body or association of persons that –
- (a) falls within paragraph (1)(i); and
 - (b) has a constitution that conforms to a model that –
 - (i) is published for the purpose by the Commissioner, and
 - (ii) provides for the entity to have a management committee.
- (9) For the purpose of paragraph (7)(e) –
- (a) a person is not a governor merely by virtue of exercising general control and management on behalf of another person who has the general control and management in that other person's own right under the constitution of the entity; and
 - (b) a person is a governor whether that person has that general control and management alone or as one of a number of governors.
- (10) In this Law, unless the context otherwise requires, "misconduct" means –
- (a) a contravention, by a registered charity or by any of its governors, of a provision –
 - (i) of this Law, or of any enactment under this Law,
 - (ii) of the constitution of the registered charity, or of the constitutional Law of the charity,
 - (iii) of a required steps notice, or
 - (iv) of an order of the court under this Law or under the constitutional Law of the charity, or under any enactment under such a Law; or
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- (b) the commission by any person, in relation a registered charity or to an excepted foreign charity (within the meaning of Article 22) or to an entity equivalent to a registered charity under the law of a jurisdiction other than Jersey, of an offence –
 - (i) under the constitutional Law of that charity or other entity,
 - (ii) under the Financial Services (Jersey) Law 1998¹⁷, the Banking Business (Jersey) Law 1991¹⁸, the Collective Investment Funds (Jersey) Law 1988¹⁹, the Insurance Business (Jersey) Law 1996²⁰, any Regulation or Order made under any of those Laws, or the Alternative Investment Funds (Jersey) Regulations 2012²¹,
 - (iii) under the Income Tax (Jersey) Law 1961²², the Goods and Services Tax (Jersey) Law 2007²³, or the Taxation (Land Transactions) (Jersey) Law 2009²⁴,
 - (iv) under any other enactment, being an offence relating to money laundering or terrorist financing,
 - (v) under any other enactment or under customary law, being an offence involving deception or dishonesty, or
 - (vi) under the law of a jurisdiction other than Jersey, being an offence similar to any of those listed in clauses (i) to (v).

PART 2

JERSEY CHARITY COMMISSIONER

3 Establishment of Jersey Charity Commissioner

- (1) There is established a corporation sole to be known as the Jersey Charity Commissioner.
- (2) Schedule 1 makes further provision in respect of the Commissioner.

4 General functions of Commissioner

- (1) The general functions of the Commissioner are –
 - (a) to administer the charity test under Part 3, and to operate the charity register under Part 4;
 - (b) to supervise the compliance of charity governors with their duties under Part 5;
 - (c) to seek to enforce the requirements of Part 6 as to use of terms restricted by or under that Part;
 - (d) to publish and maintain guidance on the operation of this Law, including guidance on the duties of governors and guidance on the charity test under Article 5(4);
 - (e) to assist other persons (including the Attorney General, the court, the Bailiff, the Comptroller and the JFSC) to discharge, in relation to registered charities and entities with charitable purposes, any function of such a person under any enactment or law, particularly

- by giving information about registered charities and other entities under Part 7;
- (f) generally to encourage, facilitate and monitor compliance of registered charities with this Law and any enactment under this Law; and
 - (g) any other function conferred on the Commissioner by this Law or by any other enactment.
- (2) The Commissioner may do anything (other than acting as a governor of a charity or of an entity with charitable purposes) that is calculated to facilitate, or is conducive or incidental to, the performance of any of his or her functions.
- (3) The Commissioner may in particular, without prejudice to the generality of his or her powers –
- (a) provide information to the public about the system of registration of charities, including information about the difference between charities and bodies with charitable purposes, information about the advantages of donating to entities that are registered as charities, and information by way of model constitutions;
 - (b) advise the Minister as to the nature of charities in Jersey and as to the merits of any proposal for further regulation of charities;
 - (c) assist a body in any jurisdiction other than Jersey, that is equivalent to the Commissioner, or to the Attorney General, the court, the Comptroller or the JFSC, in the performance of that body's functions under the law of that jurisdiction.
- (4) In performing his or her functions, the Commissioner must, so far appears to him or her to be reasonably practicable, seek to act in a way that –
- (a) protects public trust and confidence in registered charities, and is compatible with the encouragement of –
 - (i) all forms of charitable giving, and
 - (ii) voluntary participation in the work of registered charities; and
 - (b) is proportionate as to the burdens imposed on, and supports the development of registered charities.

PART 3

CHARITY TEST

5 The charity test

- (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.
- (2) A entity that otherwise meets the charity test, nevertheless does not meet that test, despite paragraph (1), if its constitution expressly permits its activities to be directed or otherwise controlled by, or any of its governors to be –
 - (a) a Minister;
 - (b) a member of the States Assembly; or
 - (c) any equivalent of such a person in another jurisdiction, acting in that capacity.
- (3) The Minister may by Order disapply paragraph (2) in relation to any entity or description of entity specified in the Order.
- (4) The Commissioner must publish and maintain guidance on the determination of whether an entity meets the charity test.
- (5) Any person, in determining whether an entity meets the charity test, must have regard to the guidance, and the Commissioner, the tribunal, a registered charity and a governor of a registered charity must have regard to the guidance when performing any other of their functions under this Law to which the guidance is relevant.
- (6) Before issuing or amending guidance the Commissioner must –
 - (a) consult –
 - (i) any persons appearing to the Commissioner to be representative of charities or bodies with charitable purposes,
 - (ii) the Minister, and
 - (iii) such other persons as the Commissioner considers appropriate; and
 - (b) publish a report on the Commissioner's views on the results of the consultation, and the reasons for the Commissioner's decision on the guidance in the light of those results.
- (7) Within a reasonable time after issuing or amending guidance the Commissioner must provide to the Minister a copy of the issued or amended guidance and the report published under paragraph (6)(b).
- (8) The Minister must lay a copy of the guidance and report so provided before the States as soon as practicable after the Minister receives the guidance and report.

6 Charitable purposes

- (1) 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;

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- (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).
- (3) The States may, on the recommendation of the Commissioner, by Regulations –

- (a) add sub-paragraphs to paragraph (1);
 - (b) add sub-paragraphs to paragraph (2) making explanatory provision in relation to any sub-paragraphs so added to paragraph (1).
- (4) The power under paragraph (3) does not include power –
 - (a) to amend or restrict the effect of any of paragraphs (1)(a) to (p) and (2)(a) to (f); or
 - (b) to alter the effect of paragraph (5).
- (5) The purpose of advancing a political party or promoting a candidate for election to any office, whether in Jersey or elsewhere, is neither a charitable purpose nor a purpose ancillary or incidental to a charitable purpose, irrespective of whether it would otherwise fall within paragraph (1) or Article 5(1)(a)(ii).

7 Public benefit

- (1) Paragraphs (2) and (3) apply to the Commissioner, the tribunal and the court when determining the question of whether an entity provides or intends to provide public benefit, for the purpose of Article 5(1)(b).
- (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.
- (4) The guidance published by the Commissioner under Article 5(4), must in particular give guidance on the determination of the question of whether an entity provides or intends to provide public benefit.

PART 4

CHARITY REGISTER

- 8 Charity register**
not in force on the revision date
- 9 Restricted section**
not in force on the revision date
- 10 Public access**
not in force on the revision date
- 11 Application to register**
not in force on the revision date
- 12 Name of charity**
not in force on the revision date
- 13 Effects of registration**
not in force on the revision date
- 14 Powers of court over registered charity**
not in force on the revision date
- 15 Deregistration on application by entity**
not in force on the revision date
- 16 Deregistration in other cases**
not in force on the revision date
- 17 Effects of deregistration**
not in force on the revision date

PART 5**GOVERNORS OF REGISTERED CHARITIES****18 General duties of governors of registered charities***not in force on the revision date***19 Reportable matters and acting as a governor***not in force on the revision date***20 Court orders as to fitness of governor***not in force on the revision date***PART 6****USE OF EXPRESSIONS “CHARITY”, “CHARITABLE” AND RELATED TERMS****21 Prohibition of unauthorized use of expression “charity” and related terms***not in force on the revision date***22 Excepted foreign charities***not in force on the revision date***23 Prohibition of unauthorized use of expression “Jersey charity”***not in force on the revision date***24 Power to restrict use of term “charitable” in soliciting funds***not in force on the revision date***25 Power to require registered charities to identify themselves as such***not in force on the revision date*

PART 7**INFORMATION AND ENFORCEMENT****26 Power to demand information***not in force on the revision date***27 Required steps notices***not in force on the revision date***28 Required steps notices restricted in relation to governors of organized religious charities***not in force on the revision date***29 Restricted information***not in force on the revision date***30 Required disclosure of information***not in force on the revision date***31 Permitted disclosure of information***not in force on the revision date***PART 8****APPEALS TO CHARITY TRIBUNAL****32 Establishment of Charity Tribunal**

- (1) There is established a tribunal to be known as the Charity Tribunal.
- (2) The function of the tribunal is to hear and determine appeals under this Part.
- (3) Schedule 2 makes further provision in respect of the tribunal.

33 Persons who may appeal and decisions that may be appealed*not in force on the revision date*

34 Grounds of appeal and powers of tribunal in determining appeals

not in force on the revision date

35 Appeal and reference to court

not in force on the revision date

36 Further provision as to appeals to tribunal or court

not in force on the revision date

PART 9

MISCELLANEOUS AND FINAL PROVISIONS

37 Offences by corporate and other bodies

not in force on the revision date

38 Service of notices

The Minister may by Order make further provision as to the service of any notice under this Law.

39 Regulations and Orders

- (1) An Order or Regulations under this Law may contain such transitional, consequential, incidental, supplementary or savings provisions, other than an amendment of this Law, as appear to the Minister or the States (as the case may be) to be necessary or expedient for the purposes of the Order or Regulations.
- (2) A power under this Law to amend, by Regulations, any provision of this Law includes the power to make such transitional, consequential, incidental or supplementary amendments to any other provision of this Law as appears to the States to be necessary or expedient.

40 Savings and transitional provisions

- (1) Nothing in this Law is to be read as derogating from any power or function of the Attorney General, the Bailiff, or the court, being a power or function that exists independently of this Law (under customary law or otherwise), in respect of charities or of acts for charitable purposes (whether as defined in this Law or otherwise).
- (2) The States may by Regulations make such other saving provision as appears to the States to be necessary or expedient for the purposes of this Law.

- (3) The States may by Regulations make such transitional provision as appears to the States to be necessary or expedient for the purposes of the bringing into force of this Law.

41 Amendments of enactments in relation to exemption from liability for tax
not in force on the revision date

42 Amendments of Laws relating to sharing of information

- (1) For the purpose of paragraph (2) a relevant enactment is –
- (a) the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008²⁵;
 - (b) any other enactment under which the JFSC has functions;
 - (c) any enactment relating to taxation.
- (2) The States may by Regulations amend any relevant enactment, to make such provision as the States consider necessary or expedient to enable any supervisory body, the JFSC and the Comptroller to disclose information to the Commissioner for the purposes of this Law.

43 Consequential amendments of other enactments

The States may by Regulations –

- (a) amend the Trusts (Jersey) Law 1984²⁶ and the Foundations (Jersey) Law 2009²⁷, to make provision for the application under those Laws of the charity test under this Law (by reference the test itself, or to whether a trust or foundation is registered under this Law, or otherwise), or of the definition of charitable purposes under this Law, and for related purposes;
- (b) amend any other enactment (not including this Law) to make such consequential provision as the States consider necessary or expedient, in relation to a reference (direct or indirect) in that other enactment to charities or charitable purposes or related terms.

44 Citation and commencement

- (1) This Law may be cited as the Charities (Jersey) Law 2014.
- (2) Parts 1 to 3, Articles 32, 38, 39, 40, 42 and 43, this Article and the Schedules come into force 7 days after registration.
- (3) The remainder of this Law comes into force on such day or days as the States may by Act appoint.

SCHEDULE 1

(Article 3)

JERSEY CHARITY COMMISSIONER**1 Appointment of Commissioner**

- (1) The Minister must appoint a person appearing to the Minister to be suitable to hold the office of the Commissioner.
- (2) Before appointing a person as the Commissioner, the Minister must seek the views of the Jersey Appointments Commission, established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005²⁸, on the appointment (without prejudice to the powers of the States or the Jersey Appointments Commission under Article 15 of that Law).
- (3) The Minister must, at least 2 weeks before appointing a person as the Commissioner, present to the States a notice of his or her intention to make the appointment.
- (4) A person appointed as the Commissioner holds and vacates that office in accordance with the terms of his or her appointment, subject to this Law.
- (5) When appointing a person as the Commissioner the Minister must determine the period of the appointment, being not more than 6 years.
- (6) The Minister may re-appoint a person serving as the Commissioner (and references in this paragraph to appointment include re-appointment).
- (7) The Minister must take all reasonable steps to ensure that at all times the office of the Commissioner is filled.
- (8) Nothing in sub-paragraph (7) is to be construed as preventing the terms of a person's appointment from requiring the person to work under the appointment for only a limited number of days in a year or hours in a day.

2 Status of Commissioner

- (1) The Commissioner may, as a corporation sole, in the name of his or her office –
 - (a) enter into an agreement for any purpose of his or her office;
 - (b) acquire, hold and dispose of movable property;
 - (c) sue and be sued in any civil proceedings;
 - (d) be charged with an offence and defend criminal proceedings; and
 - (e) do anything reasonably necessary or expedient for or incidental to any of the Commissioner's functions.
- (2) The Commissioner is independent of the States and the Minister.
- (3) The terms and conditions of the appointment of the Commissioner must not be construed so as to create a contract of employment or agency between the States, or the Minister, and the person appointed.

- (4) Despite sub-paragraphs (2) and (3) –
 - (a) the remuneration or other payment for services of the Commissioner, due under the terms of his or her appointment, must be paid out of the annual income of the States; and
 - (b) all fees and other sums received by the Commissioner in the exercise of his or her functions must be paid to the income of the States.

3 Termination of office as Commissioner

- (1) A person ceases to be appointed as the Commissioner if –
 - (a) he or she resigns from office by giving not less than 3 months' notice in writing to the Minister;
 - (b) the Minister terminates his or her appointment under sub-paragraph (2); or
 - (c) his or her appointment expires under sub-paragraph (4).
- (2) The Minister may terminate the appointment of a person as the Commissioner, after satisfying himself or herself that the person –
 - (a) has been absent from his or her duties for a period longer than 4 consecutive weeks;
 - (b) has become bankrupt;
 - (c) is incapacitated by illness; or
 - (d) is otherwise unable or unfit to discharge the functions of the Commissioner.
- (3) The Minister must, not more than 2 weeks after terminating the appointment, present to the States a notice that the Minister has terminated the appointment.
- (4) A person's appointment as the Commissioner expires if –
 - (a) the period for which the person was appointed expires without re-appointment;
 - (b) the person becomes a member of the States; or
 - (c) the person completes 12 years (whether consecutive or in aggregate) of service as Commissioner.

4 Staff, resources and reporting

- (1) The Minister must make available to the Commissioner such number and descriptions of staff as the Minister considers are required for the proper and effective discharge of the Commissioner's functions.
- (2) To the extent that any States' employee (within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005), while made available under sub-paragraph (1), performs a function under the direction of the Commissioner, the employee is to be treated as a member of the Commissioner's staff for the purposes of this Law.

- (3) Any function of the Commissioner may, to the extent authorized by the Commissioner, be exercised on behalf of the Commissioner by any member of the Commissioner's staff, except –
 - (a) the decision under Article 11 on whether to register a charity;
 - (b) the decision under Article 15(3) on whether to refuse to deregister a charity; and
 - (c) the decision under Article 16 on whether to deregister a charity.
- (4) The Minister may designate a person as the relevant person for the purpose of sub-paragraph (5).
- (5) A relevant person designated under sub-paragraph (4) is to be treated as the Commissioner for the purposes of this Law, if –
 - (a) the person appointed as the Commissioner is unable to act through incapacity or absence; or
 - (b) there is a vacancy in the office of Commissioner,
on a temporary basis until the Commissioner becomes able to act again or a new Commissioner is appointed under paragraph 1.
- (6) The Minister must provide such accommodation and equipment as the Minister considers are required for the proper and effective discharge of the Commissioner's functions.
- (7) The cost of providing staff, accommodation and equipment under this paragraph must be met out of the annual income of the States.
- (8) The Commissioner must prepare and publish a report on the activities of the Commissioner in each calendar year.
- (9) The Commissioner must provide the Minister with the report as soon as practicable after the end of the year to which the report relates, but in no case later than 4 months after the end of that year.
- (10) The Minister must lay a copy of the report so provided before the States as soon as practicable after the Minister receives the report.
- (11) The Minister may, by giving written notice to the Commissioner and publishing that notice, give directions to the Commissioner as to the content and form of the report.
- (12) Directions under paragraph (11) must respect the independence of the Commissioner and, in particular, must not require the report to contain justification of any decision of the Commissioner in relation to individual charities, governors or applicants for registration.

SCHEDULE 2

(Article 32)

CHARITY COMMISSION TRIBUNAL**1 Appointment**

- (1) The Minister must appoint as members of the tribunal at least 4, and no more than 8, persons appearing to the Minister to be suitable for the position and to have appropriate experience to safeguard the interests of the public and the charitable sector in Jersey.
- (2) Before appointing a person as a tribunal member, the Minister must seek the views of the Jersey Appointments Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005²⁹ on the appointment (without prejudice to the powers of the States or the Jersey Appointments Commission under Article 15 of that Law).
- (3) The Minister must, at least 2 weeks before appointing a person as a tribunal member, present to the States a notice of his or her intention to make the appointment.
- (4) A person appointed as a tribunal member holds and vacates that position in accordance with the terms of his or her appointment, subject to this Law.
- (5) When appointing a person as a tribunal member the Minister must determine the period of the appointment, being not more than 6 years.
- (6) The Minister may re-appoint a person serving as a tribunal member (and references in this paragraph to appointment include re-appointment).
- (7) The Minister must, among the members of the tribunal, designate one as the chair and another as the vice-chair.
- (8) Service as a tribunal member is honorary, unless the Minister determines that the chair is, or all the members are, to be remunerated by the States as Minister sees fit.

2 Termination of appointment

- (1) A person ceases to be a member of the tribunal if –
 - (a) he or she resigns from office by giving not less than one month's notice in writing to the Minister;
 - (b) the Minister terminates his or her appointment under sub-paragraph (2); or
 - (c) his or her appointment expires under sub-paragraph (4).
- (2) The Minister may terminate the appointment of a person as a member of the tribunal, after satisfying himself or herself that the person –

- (a) has been absent from his or her duties for a period longer than 8 consecutive weeks;
 - (b) has become bankrupt;
 - (c) is incapacitated by illness; or
 - (d) is otherwise unable or unfit to discharge the functions of a member of the tribunal.
- (3) The Minister must, not more than 2 weeks after terminating the appointment, present to the States a notice that the Minister has terminated the appointment.
- (4) A person's appointment as a member of the tribunal expires if –
 - (a) the period for which the person was appointed expires without re-appointment;
 - (b) the person becomes a member of the States; or
 - (c) the person completes 12 years (whether consecutive or in aggregate) of service as a member of the tribunal.

3 Staff, resources and reporting

- (1) The Minister must make available to the tribunal such number and descriptions of staff and resources as the Minister considers are required for the proper and effective discharge of the tribunal's functions.
- (2) The Minister must secure that there is available to the tribunal at least one member of staff to serve as the responsible officer, charged with assisting with the administration of (but not determinations by) the tribunal.
- (3) The responsible officer must prepare a report on the activities of the tribunal in each calendar year.
- (4) The responsible officer must provide the Minister with the report as soon as practicable after the end of the year to which the report relates, but in no case later than 4 months after the end of that year.
- (5) The Minister must lay a copy of the report so provided before the States as soon as practicable after the Minister receives the report.

4 Procedure of tribunal

- (1) A sitting of the tribunal is to be presided over by –
 - (a) the chair;
 - (b) the vice-chair, if the chair is absent; or
 - (c) if both the chair and vice-chair are absent, a tribunal member appointed for the purpose by the tribunal members present at the sitting.
- (2) Subject to sub-paragraph (1), and to any Regulations under sub-paragraph (3), the tribunal may regulate its own procedure.
- (3) The States may by Regulations make further provision as to the procedure of the tribunal, including in particular provision as to –

- (a) the burden of proof on an appeal;
- (b) the summoning of witnesses and the administration of oaths;
- (c) securing the production of documents and evidence;
- (d) the conduct of hearings, the determination of appeals with or without hearings, and the holding of hearings wholly or partly in public or private or in the absence of any party;
- (e) enabling an appeal to be determined, or any matter preliminary or incidental to an appeal to be dealt with or direction given, by the chair or vice-chair, or subject to any quorum or voting rules;
- (f) the award of costs, and the creation of offences in relation to the tribunal, carrying a penalty not exceeding imprisonment for a term of 2 years and a fine;
- (g) the publication of reports of the tribunal's decisions;
- (h) duties of the Commissioner in relation to an appeal;
- (i) striking out, withdrawal and amendment of appeals or replies;
- (j) such ancillary powers of the tribunal as the States think necessary for the proper discharge of its functions.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Charities (Jersey) Law 2014	L.41/2014	Parts 1 to 3, Articles 32, 38, 39, 40, 42, 43 and 44 and the Schedules, in force 21 November 2014; remainder not in force

Table of Renumbered Provisions

Original	Current
None	

Table of Endnote References

<i>1</i>	<i>chapter 13.125</i>
<i>2</i>	<i>chapter 24.750</i>
<i>3</i>	<i>chapter 13.265</i>
<i>4</i>	<i>chapter 13.250</i>
<i>5</i>	<i>chapter 04.120</i>
<i>6</i>	<i>chapter 13.875</i>
<i>7</i>	<i>chapter 13.075</i>
<i>8</i>	<i>chapter 13.100</i>
<i>9</i>	<i>chapter 13.225</i>
<i>10</i>	<i>chapter 13.425</i>
<i>11</i>	<i>chapter 13.875</i>
<i>12</i>	<i>chapter 13.125</i>
<i>13</i>	<i>chapter 13.875</i>
<i>14</i>	<i>chapter 13.265</i>
<i>15</i>	<i>chapter 13.125</i>
<i>16</i>	<i>chapter 13.875</i>
<i>17</i>	<i>chapter 13.225</i>
<i>18</i>	<i>chapter 13.075</i>
<i>19</i>	<i>chapter 13.100</i>
<i>20</i>	<i>chapter 13.425</i>
<i>21</i>	<i>chapter 17.245.51</i>
<i>22</i>	<i>chapter 24.750</i>
<i>23</i>	<i>chapter 24.700</i>
<i>24</i>	<i>chapter 24.980</i>
<i>25</i>	<i>chapter 08.785</i>
<i>26</i>	<i>chapter 13.875</i>
<i>27</i>	<i>chapter 13.265</i>
<i>28</i>	<i>chapter 16.325</i>
<i>29</i>	<i>chapter 16.325</i>