

# Amendments to the Jersey Foundations Law

UPDATE

Update prepared by Edward Devenport (Partner, Jersey)

---

On 17 March 2015, the Foundations (Amendment of Law) (Jersey) Regulations 2015 came into force. This legislation amends the Foundations (Jersey) Law 2009 which is the Jersey statute which provides for the establishment and operation of foundations under Jersey law.

---

This update focusses on two aspects of the amendments made.

## 1 Freedom to prescribe the purposes of a purpose foundation in the charter or regulations

Prior to the amendments being made it was unclear to what extent the purposes of a Jersey purpose foundation had to be defined in the publicly available charter of the foundation. Now, after the amendments, it is clear that it is sufficient for the purposes to be described in the public charter OR the private regulations. This is advantageous from a confidentiality perspective in respect of purpose foundations where the purposes might identify a family or individual. An example of this would be where the purpose of the foundation is to act as the orphan owner of a private trust company for a particular family. This brings the confidentiality position of purpose foundations into line with that of purpose trusts (in the latter case the trust instrument is not a public document).

## 2 Obligation to retain accounting records

The amendments introduce a new obligation on all council members (not just the qualified member) to take reasonable steps to ensure that the foundation's records are prepared and kept properly and accurately. In particular, the obligation is to ensure that such records contain entries of all sums of money received and expended by the foundation, the matters in respect of which the receipt and expenditure takes place and a record of the assets and liabilities of the foundation, including shares, interests and units held by the foundation in any other legal person or arrangement.

As a corollary to these obligations being spread across all council members, every council member is now entitled, on giving two days written notice to the qualified member, to inspect the accounting records of the foundation required to be kept at its registered office as to its transactions and financial position. Such accounting records cannot now be disposed of until 10 years have elapsed from the date on which they were made.

A criminal offence may be committed by council members and directors of corporate council members where these new accounting retention requirements are not met.

The accounting records required to be retained will of course depend upon the assets held by each foundation. In very simple cases where the assets are only cash and marketable securities, the accounting record requirements might be met by, for instance, the retention by the qualified member of all bank statements and the regular portfolio valuations. These records could be easily produced by the qualified member at council meetings as a standing agenda point to enable other council members to be satisfied that they have discharged their new personal responsibilities. It is worth noting, however, that it is already common place for Jersey foundations to have a sole corporate qualified person council member. This trend will not be discouraged by the new requirements.

## Contacts

---



**Edward Devenport**  
Partner, Mourant Ozannes  
Jersey  
+44 1534 676 366  
[edward.devenport@mourant.com](mailto:edward.devenport@mourant.com)

---

This update 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 update, please get in touch with one of your usual contacts. © 2018 MOURANT OZANNES ALL RIGHTS RESERVED