

# STATES OF JERSEY



Jersey

## **DRAFT NON-PROFIT ORGANISATIONS (AMENDMENT OF LAW) (JERSEY) REGULATIONS 202-**

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**Lodged au Greffe on 31st October 2022  
by the Minister for External Relations and Financial Services  
Earliest date for debate: 13th December 2022**

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**STATES GREFFE**



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## REPORT

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### Background

1. Jersey has a long-term policy of compliance with international standards in the area of combatting money laundering and the financing of terrorism (“AML/CFT”) and the Government remains absolutely committed to that policy in furtherance of the worldwide fight against financial crime.
2. Globally, it is recognised that terrorists and terrorist organisations may exploit the non-profit organisation (“NPO”) sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organisations and operations. This misuse not only facilitates terrorist activity, but also undermines donor confidence and jeopardises the very integrity of NPOs.
3. The Financial Action Task Force (“the FATF”, the body charged with setting international standards for AML/CFT) is clear that measures adopted by countries to protect the NPO sector from terrorist abuse should not disrupt or discourage legitimate charitable activities; however, protecting the NPO sector from terrorist abuse is both a critical component of the global fight against terrorism and a necessary step to preserve the integrity of the NPO sector and donor community.

### FATF Recommendations and Jersey’s NPO Regime

4. In 2008, the [Non-Profit Organizations \(Jersey\) Law 2008](#) (“the NPO Law”), introduced measures set out in Special Recommendation VIII of FATF’s 2004 Recommendations, to minimise the risk that NPOs might be abused by those seeking to fund terrorism.
5. In 2012, the FATF issued revised Recommendations (“the FATF Recommendations 2012”), to address new and emerging threats as well as to clarify and strengthen many of the existing obligations. The new, enhanced measures in respect of NPOs are set out in Recommendation 8 of the FATF Recommendations 2012.
6. Recommendation 8.3 of the FATF Recommendations 2012 requires that:  
*“countries should take steps to promote effective supervision or monitoring such that they are able to demonstrate that risk-based measures apply to Non-Profit Organisations (NPOs) at risk of terrorist financing abuse”.*
7. Currently, NPOs that are provided with a prescribed service in the course of trust company business under the [Financial Services \(Jersey\) Law 1998](#) are exempt from the requirement to register with the Jersey Financial Services Commission<sup>1</sup> (JFSC).
8. As these NPOs are not registered with the JFSC, the JFSC does not have any monitoring, supervisory or enforcement powers in regard to those NPOs and only has limited registration information available on them.

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<sup>1</sup> Article 2(2) of the Non-Profit Organizations (Jersey) Law 2008 sets out an exemption from the requirements set out in that law:

- A non-profit organization that is provided with a prescribed service in the course of trust company business under the Financial Services (Jersey) Law 1998 need only comply with those requirements of Part 2 of this Law that are expressed to apply also to regulated NPOs.

9. Although the involvement of a licensed and supervised Trust Company Business is an additional layer of oversight and scrutiny, as the Trust Company Business provides commercial services to the NPO it cannot be considered to be providing an oversight or supervisory function as it is envisioned under Recommendation 8.3.
10. By removing the exemption in Article 2 of the NPO Law, NPOs that are provided with a prescribed service in the course of trust company business under the Financial Services (Jersey) Law 1998, will be brought under the full set of obligations under the NPO Law in the same way registered NPOs are.
11. This proposal was included as part of the public consultation which was run by the JFSC and which was issued on 17 August 2022 and closed on 20 September 2022. The majority of the respondents to the consultation were not opposed to the proposal and confirmed that they had not identified any unintended consequences.

**Effective Date**

12. These Regulations are to come into force 7 days after they are made.

**Financial and manpower implications**

13. There are no financial or manpower implications arising from the lodging of these Regulations.

## **EXPLANATORY NOTE**

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The Non-Profit Organisations (Amendment of Law) (Jersey) Regulations 202- make some minor amendments to the legislation relating to non-profit organisations.

*Regulation 1* removes the exemption in Article 2(2) of the Non-Profit Organizations (Jersey) Law 2008 for non-profit organisations that are provided with a prescribed service in the course of trust company business.

*Regulation 2* makes a consequential amendment to delete Part 3 of the Non-Profit Organizations (Jersey) Order 2008.

*Regulation 3* provides that the Regulations come into force 7 days after they are made.





Jersey

## **DRAFT NON-PROFIT ORGANISATIONS (AMENDMENT OF LAW) (JERSEY) REGULATIONS 202-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Article 2(3) of the [Non-Profit Organizations \(Jersey\) Law 2008](#) –

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**1 Article 2 (exemptions) of the [Non-Profit Organizations \(Jersey\) Law 2008](#) amended**

Article 2(2) of the [Non-Profit Organizations \(Jersey\) Law 2008](#) is deleted.

**2 Part 3 (regulated NPOs) of the [Non-Profit Organizations \(Jersey\) Order 2008](#) deleted**

Part 3 of the [Non-Profit Organizations \(Jersey\) Order 2008](#) is deleted.

**3 Citation and commencement**

These Regulations may be cited as the Non-Profit Organisations (Amendment of Law) (Jersey) Regulations 202- and come into force 7 days after they are made.