

STATES OF JERSEY



DRAFT CHARITIES (TRANSITIONAL PROVISIONS) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 23rd January 2018
by the Chief Minister

STATES GREFFE



Jersey

DRAFT CHARITIES (TRANSITIONAL PROVISIONS) (JERSEY) REGULATIONS 201-

REPORT

A draft Appointed Day Act (P.11/2018) is being lodged together with these draft Regulations. That Act would bring into force the provisions on registration on 1st May 2018, giving time before it brings into force the provisions on taxation (and on the expression “charity”) on 1st January 2019 so entities can apply to register in good time before the taxation amendments come into force. The taxation amendments broadly provide that an entity must be registered as a charity in order to benefit from tax exemptions as a charity.

These Regulations make transitional provision in connection with the entry into force of the amendments to taxation legislation made by Article 41 of the [Charities \(Jersey\) Law 2014](#) (the “2014 Law”).

These Regulations provide that when the amendments to taxation legislation come into force, entities that were entitled to the benefit of a tax exemption before the amendments, and applied for registration as a charity (and had not had the application finally determined) before the amendments, will continue to receive that benefit until the end of the following tax year (31st December 2019) despite the amendments.

The relevant tax exemptions apply by virtue of Article 115(a) of the [Income Tax \(Jersey\) Law 1961](#). These Regulations do not affect the operation of exemptions that apply by virtue of other paragraphs of that Article.

In particular the new paragraphs (ac) and (ad) give exemptions (not limited to 2019) to certain charitable trusts and foundations, even if they do not register as charities. Nor do these Regulations limit the powers of the tribunal and the court to make interim orders on appeals and to backdate the effect of their substituted decisions, which may affect tax exemptions.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Chief Ministers, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

These Regulations make transitional provision in connection with the entry into force of the amendments to taxation legislation made by Article 41 of the Charities (Jersey) Law 2014 (the “Law”).

A draft Appointed Day Act is being lodged together with these draft Regulations. That Act would bring into force the provisions about registration of charities on 1st May 2018, giving time before it brings into force the provisions about taxation (and about the expression “charity”) on 1st January 2019 (so entities can apply to register in good time before the taxation amendments come into force). The taxation amendments broadly provide that an entity must be registered as a charity in order to benefit from tax exemptions as a charity.

These Regulations provide that when the amendments to taxation legislation come into force, entities that were entitled to the benefit of a tax exemption before the amendments, and applied for registration as a charity (and had not had the application finally determined) before the amendments, will continue to receive that benefit for the whole of the 2019 tax year of assessment, despite the amendments.

The relevant tax exemptions apply by virtue of Article 115(a) of the Income Tax (Jersey) Law 1961. These Regulations do not affect the operation of exemptions that apply by virtue of other paragraphs of that Article. In particular the new paragraphs (ac) and (ad) give exemptions (not limited to 2019) to certain charitable trusts and foundations, even if they do not register as charities. Nor do these Regulations limit the powers of the tribunal and the court to make interim orders on appeals and to backdate the effect of their substituted decisions, which may affect tax exemptions.

It is also to be noted that these Regulations do not make any transitional provision in respect of Part 6 of the Law which will, when brought into force (also on 1st January 2019, if the Assembly passes the Appointed Day Act), restrict the use of the expressions “charity” and “Jersey charity”.

These Regulations only come into force on the date when Article 41 of the Law is brought into force. Under the draft Appointed Day Act mentioned above that date would be 1st January 2019.



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Jersey

DRAFT CHARITIES (TRANSITIONAL PROVISIONS) (JERSEY) REGULATIONS 201-

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

THE STATES, in pursuance of Article 40 of the Charities (Jersey) Law 2014¹, have made the following Regulations –

1 Transitional provision as to income tax, stamp duty, land transaction tax and goods and services tax in 2019

- (1) Article 115(a) of the Income Tax (Jersey) Law 1961², as in force immediately before the commencement of these Regulations, continues, for the year of assessment 2019, to apply in respect of a prior tax-exempt entity for the purposes of –
 - (a) the Income Tax (Jersey) Law 1961³;
 - (b) the Stamp Duties and Fees (Jersey) Law 1998⁴;
 - (c) the Taxation (Land Transactions) (Jersey) Law 2009⁵;
 - (d) the Goods and Services Tax (Jersey) Law 2007⁶; and
 - (e) the Goods and Services Tax (Jersey) Regulations 2007⁷.
- (2) In paragraph (1), “prior tax-exempt entity” means an entity that –
 - (a) is, immediately before the commencement of these Regulations, entitled to exemption from income tax under Article 115(a) of the Income Tax (Jersey) Law 1961, as in force immediately before that commencement, on the income derived from its property; and
 - (b) has, before the commencement of these Regulations, made an application under Article 11 of the Charities (Jersey) Law 2014⁸ for registration as a charity, being an application that, immediately before that commencement –
 - (i) has not yet been determined by the Commissioner or withdrawn, or
 - (ii) has already been refused by the Commissioner, but is still the subject of an appeal which has not yet been determined by the tribunal or withdrawn.
- (3) Nothing in this Regulation is to be read –

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- (a) as limiting the powers of the tribunal or the court under Articles 34(2)(a), 35(4) and 36(3) of the Charities (Jersey) Law 2014; or
 - (b) as affecting the operation of any paragraph of Article 115 of the Income Tax (Jersey) Law 1961 other than paragraph (a) of that Article.

2 Citation and commencement

These Regulations may be cited as the Charities (Transitional Provisions) (Jersey) Regulations 201-, and come into force on the commencement of Article 41 of the Charities (Jersey) Law 2014⁹.

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- 1 *chapter 15.070*
 - 2 *chapter 24.750*
 - 3 *chapter 24.750*
 - 4 *chapter 24.960*
 - 5 *chapter 24.980*
 - 6 *chapter 24.700*
 - 7 *chapter 24.700.30*
 - 8 *chapter 15.070*
 - 9 *chapter 15.070*