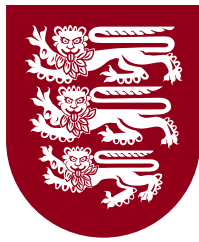


STATES OF JERSEY



Jersey

DRAFT WESTAWAY TRUST (TRANSFER OF ASSETS) (JERSEY) LAW 202-

**Lodged au Greffe on 10th February 2025
by the Minister for Treasury and Resources
Earliest date for debate: 1st April 2025**

STATES GREFFE



Jersey

DRAFT WESTAWAY TRUST (TRANSFER OF ASSETS) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources, the provisions of the Draft Westaway Trust (Transfer of Assets) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy M.E. Millar of St. John, St. Lawrence and Trinity**
Minister for Treasury and Resources

Dated: 7th February 2025

REPORT

The purpose of the proposition brought to the Assembly is to enable the transfer of all assets from two Westaway funds (“The Pauvres Honteux Fund” and “Ecoles Elémentaires Fund”), established by the Westaway Trust (Jersey) Law 1930, into Le Don De Faye Trust. Le Don De Faye Trust fund has similar settlor aims to the Westaway Trust and the Treasurer of the States has been the Trustee for both trusts to date.

Fund	Assets (2024) £'000	Income (2024) £'000
Westaway Pauvres Honteux Fund	24	1
Westaway Ecoles Elémentaires Fund	31	1
Le Don De Faye	1,831	96

The primary reasons for doing so are:

1. In recent years, the assets of the Westaway funds have had insufficient income to make distributions. Under the terms of the trust, the funds’ assets must be maintained and so it is only where those assets produce an income that distributions may be made. It is anticipated that this will continue unless some change to the funds is made.
2. The aims and distribution methods of Le Don De Faye Trust are consistent with the aims and distribution methods of the two Westaway funds, providing a practical solution to (1) without disadvantage or cost to the Westaway funds.
3. The transfer will facilitate the investment of the Westaway assets into the States of Jersey Collective Investment Fund (the funds are otherwise too small to be added), thereby giving the funds a greater chance of generating income for distribution.

The two Westaway funds were established in 1930 and contained terms that became impractical to apply (for instance, the intention that headteachers would identify pupils’ religions for the purposes of income distribution, or that distributions would be made solely out of income, given the size of income generating assets). Whilst these terms could be amended one by one, it remains the case that the funds are too small individually to have meaningful impact. If the funds are distributed through Le Don De Faye however, the spirit of the funds will be maintained (arguably more so than by reform since the income restriction can be kept) and administration will be more effective.

This proposition has been developed in consultation with the Westaway Donation Council, (representing the Westaway funds), the Treasurer of the States (as Trustee of Le Don De Faye fund and as representative for the Westaway funds for the States Assembly), and the Rectors and Churchwardens of the parishes, who are involved in all three funds. Furthermore, a consultation was advertised in relevant local media for any interested parties to express their views in January 2024.

History and detail of the funds

By Act of the States, the Westaway Trust (Jersey) Law 1930 was passed on 11 March 1930. The Act accepted the transfer of assets from the Trustee of the Will of the late Miss Julia Westaway to the care of the Treasurer on behalf of the States, in the process creating:

1. “The Pauvres Honteux Fund”
2. The “Ecoles Élémentaires Fund”

Under Article 11 of the Law, the income of each fund could be distributed for the funds’ aims.

The Pauvres Honteux Fund’s income would be distributed “*by the Finance Committee...among the twelve parishes of the Island, the portion coming to each parish being in proportion to its population [based on the last Census Report data]. [The Treasurer] shall pay the amount thus found to each parish... [to be] distributed at the discretion of the Constable and Churchwardens... as special relief among the necessitous natives of each parish who are not at the charge of their respective parishes.*”

The Ecoles Élémentaires Fund income would be used for the payment for supplies of clothing and shoes authorised by the Westaway Donation Council:

“The Treasurer of the States shall, in co-operation with the Westaway Donation Council, and with the approval of the Finance Committee, draw up the regulations necessary both for the facilitating the carrying out of the duties of the said “Westaway Donation Council”, and for assuring effective control, from the financial point of view, for the supplies of clothing and shoes authorised by the said Westaway Donation Council”.

Per the original Will, the wishes of the settlor were that the funds would be used for “*providing poor children of protestant evangelical families with clothing and shoes*”. Under the Act, it was envisaged that this would involve Headteachers providing the Constable of each Parish with a list of suitable children, for the Constable to forward with comments drawn from discussions with Churchwardens regarding suitability to the Westaway Donation Council for decision.

Le Don De Faye Trust, by comparison, behoves the Treasurer to distribute the income of the fund to the Rectors and Churchwardens of the parishes annually in December, with a 1/13th of the income to each parish (except for St. Clement who receives 2/13ths), then for the Rectors and Churchwardens in turn to distribute “*at the sole discretion of [each] said Rector and his Churchwardens to needy parishioners of all social standing*”.

Le Don De Faye Trust shares several common features to the Westaway funds: a religious backdrop to the support envisaged; the distribution to parishes with account of population, via Church officers; and foremost, it focuses on provision of financial support to “needy” residents of Jersey.

Furthermore, the Treasurer, who endorses this proposal, has existing responsibility for the administrative arrangements and investment of assets of all three funds.

Financial and staffing implications

There are no material financial or resource implications for the States arising from this proposition.

Children’s Rights Impact Assessment

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT**Human Rights Notes on the draft Westaway Trust (Transfer of Assets) (Jersey) Law 202-**

These Notes have been prepared in respect of the draft Westaway Trust (Transfer of Assets) (Jersey) Law 202- (the “draft Law”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“ECHR”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law transfers the assets from the Westaway Trust into the Le Don de Faye fund.

The draft Law is not thought to engage any of the provisions of the ECHR and accordingly is considered compliant with it.

EXPLANATORY NOTE

This Law, if passed, will direct the Treasurer of the States as trustee, within 14 days, to transfer the remaining assets currently administered in accordance with the Westaway Trust (Jersey) Law 1930 to Le Don de Faye fund to be subject to the terms of that trust. Once that transfer takes place the Law also repeals the 1930 Law and will itself be repealed.



Jersey

DRAFT WESTAWAY TRUST (TRANSFER OF ASSETS) (JERSEY) LAW 202-

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Jersey

DRAFT WESTAWAY TRUST (TRANSFER OF ASSETS) (JERSEY) LAW 202-

A **LAW** to provide for the transfer of the assets currently administered in accordance with the Westaway Trust (Jersey) Law 1930 to Le Don de Faye fund and for connected purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law –

“1930 Law” means the Westaway Trust (Jersey) Law 1930;

“assets” means the assets held by the Treasurer of the States as the sole perpetual Trustee of the trusts created by the will of Miss Julia Westaway under the 1930 Law.

2 Application

- (1) This Law applies in respect of the assets remaining at the date that this Law comes into force.
- (2) This Law applies despite any provision of the 1930 Law.

3 Transfer of assets

On the commencement of this Law the Treasurer of the States must, within 14 days, transfer the remaining assets into Le Don de Faye fund, so that they become subject to the trust created by the will of Jurat P.C. Cabot, which received a grant of probate on 29 April 1959.

4 Repeal of Laws

Following the transfer of the assets under Article 3, the 1930 Law and this Law is repealed.

5 Citation and commencement

This Law may be cited as the Westaway Trust (Transfer of Assets) (Jersey) Law 202- and comes into force 7 days after it is registered.