

STATES OF JERSEY



DRAFT FOUNDATIONS (AMENDMENT) (JERSEY) REGULATIONS 200-

Lodged au Greffe on 2nd June 2009
by the Minister for Economic Development

STATES GREFFE



Jersey

DRAFT FOUNDATIONS (AMENDMENT) (JERSEY) REGULATIONS 200-

REPORT

The Foundations (Jersey) Law 2009 (“the Law”) was adopted by the States on 22nd October 2008.

The Law will introduce a new type of wealth-management vehicle, to be known as a “foundation”. A foundation will be a distinct legal entity like a company, but, unlike a company, it will not have shareholders. It will have easily recognised liabilities and accountabilities, openly recorded on a public registry in the same way as a company. It will hold assets in its own name for the purposes set out in its constitutive documents.

Article 52 of the Law provides for the States to amend Parts 1 and 2 of the Law by the Regulations. These Regulations are an amendment to Part 1, clarifying what is meant by “body corporate” and also an amendment to Part 2, clarifying the location of a foundation’s place of administration.

There are no measurable financial or manpower costs for the States. The Commission and the Registrar will have costs associated with considering proposed continuances for approval, but these costs will be passed on to those seeking continuance. Overall, the measures will be revenue positive.

Explanatory Note

These Regulations amend the Foundations (Jersey) Law 200- in two ways that have been shown to be necessary since the Law was approved by the States.

Firstly, “body corporate” is defined to make it clear that, for continuation purposes, the term includes a body or entity incorporated or established outside Jersey whether by registration, endowment or otherwise and whether or not having legal personality.

Secondly, it has been pointed out that the Law should make it clear that the business address of a foundation is to be taken to constitute the place of administration of the activities and assets of the foundation. If this is not specifically stated in the Law a jurisdiction, France for instance, could treat a foundation as resident in its jurisdiction if any form of management or administration were to be carried out by a resident of the jurisdiction.



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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Article 52(1) of the Foundations (Jersey) Law 200-, have made the following Regulations –

1 Definition

In these Regulations “the Law” means the Foundations (Jersey) Law 200-¹.

2 Article 1 amended

Article 1(1) of the Law is amended by inserting after the definition “beneficiary” the following definition –

“ ‘body corporate’ includes, for the purpose of Article 56(1), any body or entity incorporated or established outside Jersey whether by registration, endowment or otherwise and whether or not having legal personality;”.

3 Article 10 amended

Article 10 of the Law is amended by adding the following paragraph –

“(3) The business address of a foundation, unless its charter provides otherwise, is to be taken to constitute the place of administration of the activities and assets of the foundation.”.

4 Citation and commencement

(1) These Regulations may be cited as the Foundations (Amendment) (Jersey) Regulations 200-.

- (2) They shall come into force on the same date as the Foundations (Jersey) Law 200-.

¹

Law currently awaiting Privy Council approval