



Guernsey Registry

Changes to Guernsey and Alderney charity/NPO legislation

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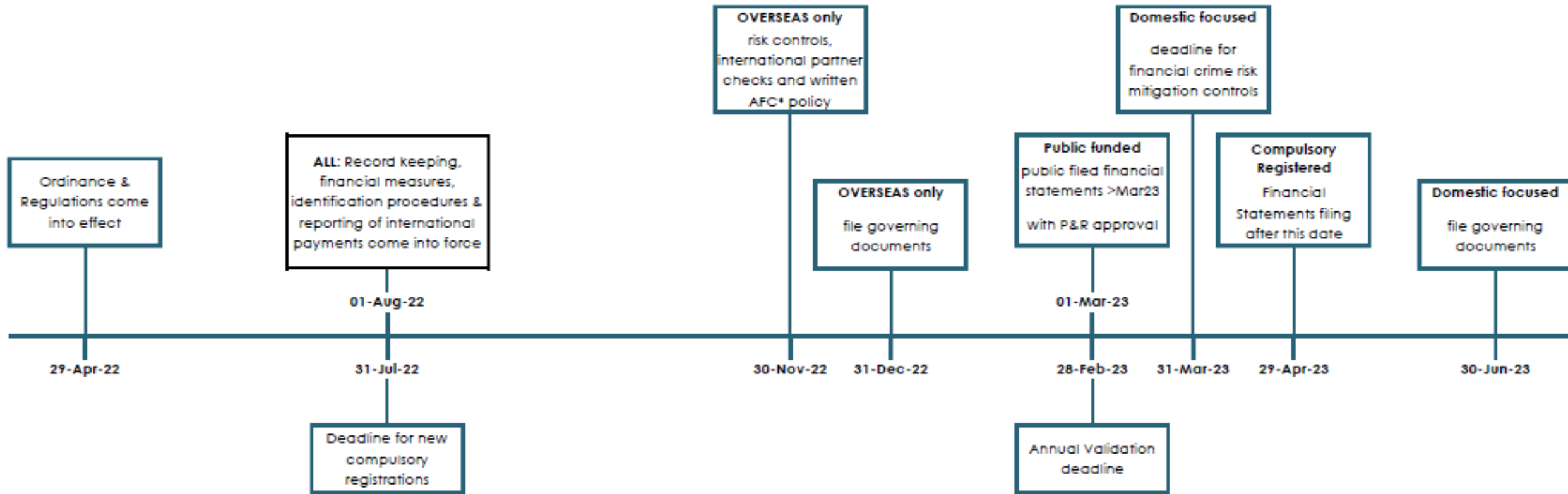
www.guernseyregistry.com/charities

- **Role of the Guernsey Registry**
- **New legislation – brought into force 29 April 2022**
 - The Charities etc. (Guernsey and Alderney) Ordinance, 2021
 - The Charities etc. (Amendments, Exemptions, Governance and Specified Amount (Guernsey and Alderney) Regulations, 2022
- **Moneyval evaluation – 2024**
 - Meeting international (FATF) standards on anti money laundering (AML).

- **Who can be registered and who must be registered?**
 - Charitable purpose test and public benefit test
- **What are the new requirements on registered charities/NPOs?**
 - Managing officers
 - Governing documents
 - Keeping records (e.g. financial statements, details of board members, donor/beneficiary registers, etc.)
 - Risk assessments and risk mitigation
 - Reporting to the Registry

- **What do charities/NPOs need to do to comply with the new requirements?**
- **What deadlines do charities/NPOs need to be aware of?**
 - Timeline of changes
- **What help is available?**
 - Registry website – www.guernseyregistry.com/charities
 - AGC, Community Foundation, etc.

Commencement of Charities etc Ordinance and Regulations



*AFC means Anti Financial Crime

Who can be registered?

Relevant entities who meet the charitable test and public benefit test can be registered.

Relevant Entity

Charitable Test

Public Benefit

“Relevant entity” means:

Charity or non-profit-organisation
established, administered,
controlled in or operating from
Guernsey or Alderney

Ordinance: Part II, section 8.

Non-relevant entities
IF entrusted
property/fund
income for
charitable benefit of
Guernsey/Alderney
public

Ordinance: Part II, section 9.

The Ordinance sets out charitable purposes:

- (a) the prevention or relief of poverty,
- (b) the advancement of education,
- (c) the advancement of religion,
- (d) the advancement of health,
- (e) the saving of lives,
- (f) the advancement of citizenship or community development,
- (g) the advancement of the arts, heritage, culture or science,
- (h) the advancement of public participation in sport,
- (i) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended,
- (j) the advancement of human rights, conflict resolution or reconciliation,
- (k) the promotion of religious or racial harmony.
- (l) the promotion of equality and diversity,
- (m) the advancement of environmental protection or improvement,
- (n) the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage,
- (o) the advancement of animal welfare, and
- (p) any other purpose that may reasonably be regarded as analogous to any of the purposes listed in subparagraphs (a) to (o)

What is “public benefit”:

In carrying out its purpose the charity/NPO

provides or intends to provide

benefit for the public

or a section of the public in Guernsey, Alderney

or elsewhere to a reasonable degree

Compulsory registration

Internationally
active

or

£100,000 > assets

or/&

£20,000 turnover

Domestic charities/NPOs over the thresholds which are **NOT** funded by the public are exempt from compulsory registration.

- **Receives or/ & provides assets to parties outside the Bailiwick**
- Or expects to
- In normal course of mission focused activities
- Applies to branches/affiliates of organisation based elsewhere
- Established specifically to assist other parts of the world.

NOT international activity:

- Incidental to domestic activities
- Associated physical distributions
- Funding Bailiwick resident
- De minimis (common sense)

What is a donation:

Appearing to solicit or accept donations from the public includes having donation information/ability on a website, or publicising the receipt of sponsorships or grants.

See general guidance [FAQ 6](#)

What is NOT a donation:

- Accepting an unsolicited bequest
- Fundraising: events or sales with something in exchange
- Restructuring trusts/foundations
- Family/close associate
- Religious attendees
- Sport/culture event participants

Regulations: 2 (Registration) and 6 (Financial probity)

Benefits to registration:

- Income tax credits
- Banking
- Discounts
- Reputation

Regulation exceptions:

- Voluntary organisations may have only two* individuals as managing officers. Treasurer must be separate and unconnected.
- Voluntary organisations do not need to file financial statements with the Registry but must still keep financial records.

* Minimum number of managing officers is three. Recommended is four.

Charities/NPOs administered by CSP and those with parent organisations registered with Charity Commission are also able to have two unconnected Guernsey/Alderney managing officers.

Note:

Voluntarily registered charities/NPOs are registered organisations for the purposes of the legislation, so certain obligations will apply

(see general guidance [FAQ 8](#))

- **All charities/NPOs must have an up to date governing document.**
- **Forms of governing document**
 - Constitution (unincorporated associations)
 - Memorandum and Articles (LBG companies)
 - Trust deed
 - Charter and Rules (Guernsey registered foundations)
 - Can have more than one governing document (e.g. where it is difficult or impractical to make changes to the original governing document).

- **The regulations specify what must be included in the governing documents as a minimum:**

- | | | |
|------------------------------------|---|-------------------------------|
| 1. Name | Members | Board/Manager Officer |
| 2. Legal status | 8. Nature/identity | 13. Determining board members |
| 3. Purpose | 9. Rules | 14. Board duty & powers |
| 4. Relationship if applicable | 10. Meeting rules | 15. Chair duty & powers |
| 5. Dissolution | 11. Audit/inspection decisions | 16. Secretary duty & powers |
| 6. Administration of assets | 12. Rights re annual financial statements | 17. Treasurer duty & powers |
| 7. Rules re constitution amendment | | 18. Meeting rules |

- **Charities/NPOs must review their governing documents and (if necessary) make amendments to add any of the required details that are missing.**
 - **International** focussed charities/NPOs must file amended governing documents with the Registry by **31 December 2022**.
 - **Domestic** focussed charities/NPOs must file amended governing documents with the Registry by **30 June 2023**.
 - Going forward, if any changes are made to a charity/NPO's governing documents, an updated copy must be filed with the Registry **within 21 days** of the change.

All charities/NPOs must keep up to date records:

- Constitution
- Policies
- Anti-financial crime policy
- Reviews
- Managing officer records
- Minutes
- Contracts
- Affiliations
- Accounts
- Financial statements
- Identification of donors/beneficiaries
- Donors register

Deliberate agreed and written down guidance on how the charity/NPO intends to meet its objectives

- Easy to understand
- Shared and used
- Controlling risk
- Operational efficiencies
- Mission focussed
- Reviewed

Charities/NPOs should regularly review their policies.

- Ask yourself two questions:
 - “Is this what really happens?” *and*
 - “Is it achieving the objective?”
- Record your findings
- Agree changes
- Date and record updates

Charities/NPOs should keep up to date records of their managing officers:

- Name and residential address
- Title/role
- Connections with other managing officers
- Director registration number (if applicable)
- Criminal records
- Details of any loans

Charities/NPOs should keep minutes of their meetings:

- Date and time
- Attendees and absentees
- Acceptance/amendments to previous minutes
- Significant comments in a discussion
- Summary of decisions
- Voting outcomes

Charities/NPOs must keep records of contracts entered into that meet the following criteria:

- Written and agreed contracts for goods/services worth £5,000 or more
- All contracts with international partners
- All contracts with third party affiliations (*detailed on the next slide*)

Charities/NPOs must keep records of any affiliations they have with third party organisations:

- Agreement
- Effect/permission/requirements/operations
- Continuous/persistent/connected
- Not support

Charities/NPOs must keep accounts and financial statements:

- Record all financial movements
- Accruals/prepayments (*except for branches and voluntarily registered charities/NPOs*)
- Balance sheet (*except for branches and voluntarily registered charities/NPOs*)
- Report and notes

Charities/NPOs must identify donors and beneficiaries that meet certain criteria:

- Located outside of the Bailiwick (*Except British registered charities - check registration*)
- Worth over £15,000, or unusual
- **Record should be made in advance (or record why)**
- **Beneficiaries (entitlement)**
- **Donors register**

Name

Address, Registration (GFSC)

CSP or controlling parties

Proportionate

- Readily available
- Circumstantial
- Cost effective

Charities/NPOs must identify international partners:

- Where charity/NPO has no direct involvement in distributions in a country with limited infrastructure and rely on a third party.
- No financial threshold
- Foreign entities not administered by a CSP:
 1. Identify board members/control
 2. Plan in advance (written agreement)
 3. Apply oversight and controls

Third party

On the ground

Excl. Jersey, IoM & UK

Reasonable

- Agreed by managing officers

- Risk related

- Reputation based

6 years

Secure

GDPR

Retrievable

- **All charities/NPOs are required to be aware of the risks faced by their organisation and put mitigations in place where necessary.**
- **Undertake a written risk assessment:**
 - Identify a risk
 - Determine the likelihood and impact of the risk occurring
 - Identify any mitigations that may be necessary

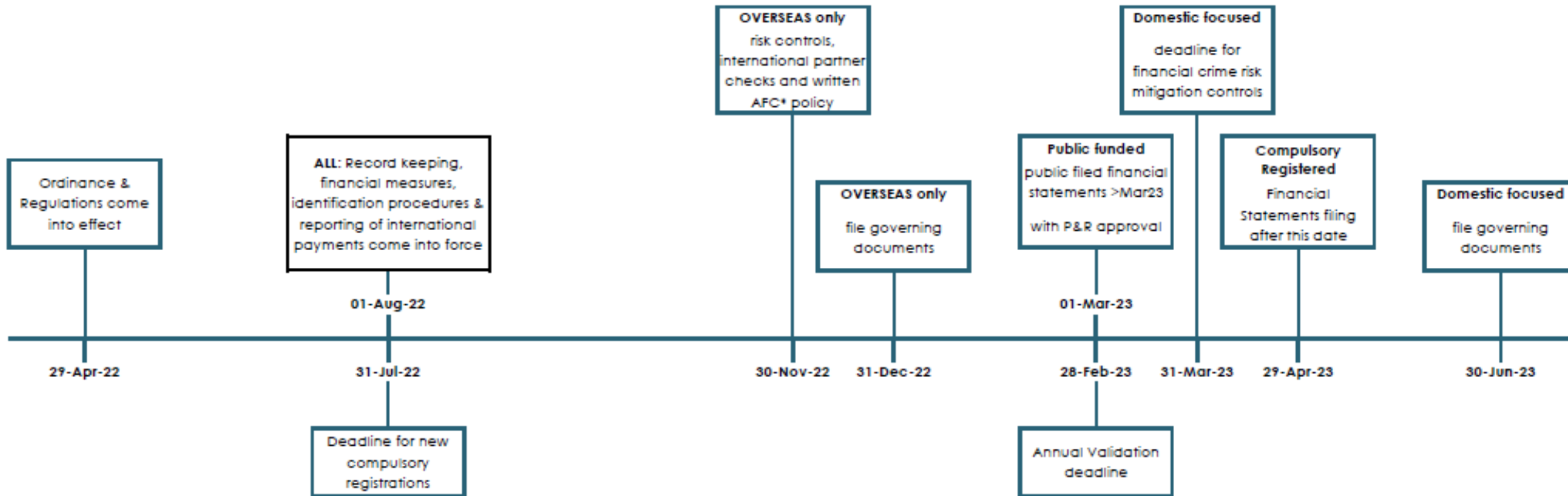
- **Examples of types of risk faced by charities/NPOs**
 - Legislation risk (e.g. sanctions for failing to make required filings to the Registry)
 - Financial (e.g. money laundering, bribery, corruption)
 - **(International only)** – terrorism financing
- **Internationally active charities/NPOs need to take additional measures.**
 - Must have a written anti financial crime policy and submit a copy to the Registry.

- **All charities/NPOs must carry out a risk assessment and put in place mitigating measures where necessary.**
 - **International** focussed charities/NPOs must have completed this by **30 November 2022.**
 - **Domestic** focussed charities/NPOs must have completed this by **31 March 2023.**
 - **International** focussed charities/NPOs must also have a written anti financial crime policy in place **and filed with the Registry by 30 November 2022.**
 - **Domestic** focussed charities/NPOs are not required to have a written anti financial crime policy but should address the risks in their main risk assessment.

- **21 days to update Registry if any details change**
- **International payments over £100,000 must be notified to Registry**
- **Annual validation must be filed by 28 February each year**
- **Financial statements >12 months** *(except voluntarily registered charities/NPOs)*

- **Where a charity/NPO fails to meet its obligations under the legislation, the Registrar may impose various sanctions/penalties:**
 - Strike off
 - Civil penalties
 - Public/private reprimands
 - Administrative Penalties (Schedule 7 of the Ordinance)

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