

Foundation restoration to the register - Court restoration guidance

The Court may order that a Foundation is restored to the Register if it is just and equitable to so, having taken into account the position of the default recipient in accordance with Regulation 9 of The Foundations (Guernsey) (Strike Off) Regulations, 2014.

Applications may be made by:-

- Her Majesty's Procureur
- A Foundation Official
- A participant
- The Registrar
- Any person who has leave of the Royal Court to do so

An application must be made within 5 years of the date of the decision to strike it off the Register, or within 2 months of the date of the Registrars' decision not to administratively restore, whichever is the later.

Where an application is to be made the applicant must have given notice to the participants, foundation officials, resident agent and default recipient.

In order to reach a decision the Court will need adequate evidence of:-

- The registration and strike off of the Foundation,
- An explanation as to the reasons for the strike off, and
- The reason restoration is sought.

If the Court grants an order to restore a Foundation it may:-

- As per section 44 of the law, order the costs and expenses of and incidental to the Court application be paid by the Foundation or by such persons as the Court thinks fit. It will also have regard to the appropriateness of compensating the default recipient or Registrar for any losses that they may have suffered as a result of the application.
- Direct (as a precondition for the restoration order to take effect) that any documents or information outstanding in respect of the Register at the time of strike off be filed, and any fees or penalties owing to the Registrar at the time of strike off be paid.
- Direct that the Foundation be restored to the Register under the same name, or a different name if the previous name of the Foundation is no longer available.
- Make provision for any assets passed to the default recipient on strike off to be returned to the Foundation by the default recipient.

If the Court grants an order to restore a Foundation it shall direct the applicant to serve the Order upon the Registrar, for the Registrar to register the restoration of the Foundation accordingly.