

The Foundations (Guernsey) Law, 2012

Rules - required elements

The Foundations law sets out the required elements of the Rules as follows:

1. Prescribe the functions of the Council.
2. Detail the procedures for the appointment, resignation and removal of councillors and any guardian.
3. If the councillors or guardian are to be remunerated—make such provision as the founder thinks fit.

In addition to the required elements, the Rules may also, to the extent that the Charter contains any of the required elements of the Rules:

1. Prescribe the manner in which the property of the foundation may be distributed, accumulated or applied.
2. Detail whether, and if so how, further property may be endowed upon the foundation.
3. Provide for the addition or removal of a person or class of beneficiary.
4. Detail any powers in relation to the foundation—including (but not limited to) the power to appoint officials, to take investment decision, to approve the use of foundation assets.
5. Impose obligations upon beneficiaries as a condition of benefit.
6. Make the interests of a beneficiary:
 - A) liable to termination
 - B) subject to restriction on alienation or dealing
 - C) subject to diminution or termination in the event of the beneficiary becoming bankrupt.
7. Detail the name and address of the default recipient.
8. Contain any other information that the founder thinks fit.

The rules do not need to include such elements.

The Foundation Rules may be amended only:

1. The constitution so provides, or
2. An application is made to the Royal Court

The purpose of this guidance note is to provide information on certain issues that should be considered with regard to Foundation Rules

It is not intended to be definitive legal advice and should not be relied upon as such.

The interpretation of the Foundations (Guernsey) Law, 2012 is a matter on which the Guernsey Registry cannot advise and entities need to form their own view on compliance with the legislation.

Independent legal advice is advised where there is any uncertainty.