

GUERNSEY STATUTORY INSTRUMENT

2023 No. 113

**Foundations (Guernsey) Law, 2012 (Annual Renewal
and Fees) (Amendment) Regulations, 2023**

<i>Made</i>	<i>16th November, 2023</i>
<i>Coming into operation</i>	<i>17th November, 2023</i>
<i>Laid before the States</i>	<i>, 2023</i>

THE COMMITTEE FOR ECONOMIC DEVELOPMENT, in exercise of the powers conferred on it by section 51 of, Schedule 1 to, and paragraph 1(4) of Schedule 1A to, the Foundations (Guernsey) Law, 2012^a, and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Amendment of the Annual Renewal Regulations.

1. (1) The Foundations (Annual Renewal) Regulations, 2014^b are amended as follows.

(2) In regulation 1(2)(b) (duty to complete annual renewal), for "correct" substitute "correct and current".

^a Order in Council No. I of 2013; this enactment has been amended.

^b G.S.I. No. 10 of 2014; this enactment has been amended.

(3) In regulation 2(1) -

(a) for subparagraph (d) substitute -

"(d) whether the foundation is exempt from the resident agent requirements at Schedule 1A and, if so, the grounds on which it is so exempt,"

(b) for subparagraph (i) substitute -

"(i) in relation to a resident agent, if applicable -

(i) that the foundation has a resident agent in accordance with the requirements of Schedule 1A to the Law,

(ii) the particulars of its resident agent required to be entered in its record of resident agent under paragraph 2 of Schedule 1A to the Law,

(iii) that the foundation has kept a record of its resident agent and has notified the Registrar of any change in its resident agent or in the details contained in its record of resident

agent in accordance with paragraph 2 of Schedule 1A to the Law,

(iv) an address for service (and such other contact details for that resident agent as the Registrar may specify),

(v) the length of time for which the resident agent has been an official of the foundation or otherwise associated with it,

(vi) whether the resident agent has served a notice under section 9 of the Beneficial Ownership Law on any person in respect of the beneficial owners of the foundation within such period as the Registrar may direct,

(ia) the category or categories of its principal business activities by reference to a system of classifying business activities prepared by the Registrar",

(c) in subparagraph (j), after "has" insert ", in respect of such matters as the Registrar may specify,"

(d) after subparagraph (k) insert -

- "(ka) that the foundation has complied, over the course of the year, with its obligations to keep and maintain records under the Law, including its obligations to keep and maintain records at its registered office under section 22 of the Law,
- (kb) that the records required to be kept under the Law (including those kept for the purposes of section 22 of the Law) are correct and current as at the 31st May of the year to which the annual renewal relates,
- (kc) that the foundation, where applicable, has complied with its obligations under the Law to deliver copies of documents, or give notice to the Registrar of changes to information filed with the Registrar, as the case may be,"
- (e) in subparagraph (m), after "real property" insert "or high value asset" and after "that property" insert "or asset",
- (f) for subparagraph (o), substitute -
 - "(o) for foundations to which this paragraph applies, whether the foundation -
 - (i) is a settlor, trustee, protector or beneficiary of an existing express trust

(or occupies an equivalent role in relation to another form of legal arrangement), or

(ii) exercises control over an express trust (or another form of legal arrangement),

and, if so, such other matters in relation to that trust or other legal arrangement as the Registrar may specify,

(p) that the foundation's record of beneficiaries is kept and maintained at its registered office as required under section 22A of the Law, and is correct and current as at the 31st May of the year to which the annual renewal relates,

(q) that the information contained in the return was correct and current as at the 31st May of the year to which the annual renewal relates, and

(r) such further information as the Registrar may direct, following consultation with the Committee."

(4) In regulation 2(2), before "current", wherever it appears, insert "correct and".

(5) For regulation 2(2A) substitute –

"(2A) Subparagraphs (j) to (o) of paragraph (1) do not apply to a foundation which is licensed, authorised or registered by the Commission."

(6) Regulation 2(2B) is revoked.

(7) In regulation 2(2C) -

(a) in subparagraph (a), for "2018" substitute "2021", and

(b) after subparagraph (c), insert -

"(ca) **"high value asset"** means –

(i) any single item of tangible personal property, or

(ii) a collection of items of tangible personal property of the same type held for the primary purpose of financial gain, or the preservation of wealth,

which a reasonable person would believe to have a market value greater than £5 million, and

(cb) "**market value**", for the purposes of paragraph (ca), means the price which that single item or collection of items (as the case may be) might reasonably be expected to fetch in a sale in an open market."

(8) For regulation 3, substitute –

"Failure to complete annual renewal.

3. (1) If a foundation contravenes regulation 1(1), the penalty for failing to complete an annual renewal specified in the Foundations (Registrar) (Civil Penalties) Regulations, 2023 shall be payable, and the foundation will be liable to be struck off the Register in accordance with regulation 2(3)(e) of the Foundations (Guernsey) (Strike Off) Regulations, 2014.

(2) Without prejudice to paragraph (1), a foundation that contravenes regulation (1) is guilty of an offence, and on conviction liable to the penalty set out in paragraph 7(8) of Schedule 1 to the Law."

Amendment of Fees Regulations.

2. (1) In the Foundations (Fees) (Guernsey) Regulations, 2013^c, in regulation 4(1), for the definition of "**the Registrar**" substitute –

""**the "Registrar"** means the Registrar of Foundations,".

^c G. S. I. No. 2 of 2013.

(2) In the table set out in the Schedule to the Foundations (Fees) (Guernsey) Regulations, 2013, delete the entry for "Penalty for failure to complete annual renewal (Sch. 1, para 7)".

Amendment of the Law.

3. In the definition of "**corporate services provider**" at paragraph 1(1) of Schedule 1A (resident agents) to the Foundations (Guernsey) Law, 2012, after "primary" insert "or secondary".

Citation.

4. These Regulations may be cited as the Foundations (Guernsey) Law, 2012 (Annual Renewal and Fees) (Amendment) Regulations, 2023.

Commencement.

5. These Regulations shall come into force on 17th November 2023.

Dated this 16th day of November, 2023

A handwritten signature in blue ink, appearing to be 'N. R. Inder', written in a cursive style.

N. R. INDER

President of the Committee *for* Economic Development

For and on behalf of the Committee

EXPLANATORY NOTE

These Regulations amend the Foundations (Annual Renewal) Regulations, 2014 to reflect recent amendments to the Foundations (Guernsey) Law, 2012 ("**the Law**") and other enactments, and to assist the Registrar of Companies in the exercise of her functions.

These Regulations also amend the Foundations (Fees) (Guernsey) Regulations, 2013 to reflect recent amendments to the Law, and amend the definition of corporate services provider in the Law.