

## Corporate Law

# Jargon Buster

This glossary is specific to the provisions of Jersey law

### Company

An association of persons, generally formed to operate an undertaking or hold title to an asset, which has a legal personality separate from that of its members and which almost always provides them with limited liability. Extensive legislation gives the reassurance (or inconvenience) of a web of detailed rules to follow.

### Trust

A relationship created at the direction of a person, known as a settlor, who transfers ownership of an asset to another person, known as a trustee. The trustee's duty is to hold it and eventually transfer it to another person or other persons, known as the beneficiary/ies. Used for estate planning, tax planning and other situations where it helps the settlor not to keep title to assets in his own name.

### Partnership

A customary law relationship between persons who agree to place title to an asset, or to conduct some activity in common between them, with a view to sharing the profit made but without the protection of limited liability.

### Limited partnership

A statutory relationship that may be created for any lawful purpose. It allows some partners to enjoy limited liability by distinguishing between the managing or general partner (whose liability is unlimited) and investing or limited partners (who enjoy limited liability).

### Limited liability partnership

A statutory relationship where all partners can share in management and enjoy limited liability so long as they are carrying on a business with a view to making a profit.

### Separate limited partnership

Like a limited partnership, but the partnership is seen as a separate person in its own right and so is able to hold title to its assets in its own name, rather than in the names of the partners.

### Incorporated limited partnership

Like a separate limited partnership but the partnership is not just a separate person; it also has corporate status. This means the partnership can continue unchanged irrespective of changes to the identity of the partners. An ILP has many of the attributes of a Company but should not be confused with one.

### Foundation (strictly a private foundation)

A statutory creation used for the same reasons as a Trust but involving the creation of a body with separate legal personality. However, it has no members (or shareholders) and its purpose is to hold or distribute assets to benefit the beneficiaries, be they people or purposes, identified by its founder.

### Founder

The title of the person who calls for a foundation to be incorporated and who endows it with assets (similar to the settlor of a trust).

### Council

The body or person who administers the affairs of a foundation; much as its directors administer the affairs of a Company. One member must be a person regulated by the Jersey Financial Services Commission.

### Settlor

The original owner of the assets that are transferred to trustees so as to be held subject to the terms of a trust.

### Beneficiary

Any person or cause, whether charitable or not, whether defined by name or by membership of a class of sufficient conceptual certainty, for whose benefit assets are held by and distributed from a Trust or Foundation.

### Trustee

A person holding title to and managing the assets of a trust for the benefit of the beneficiaries as provided for by the terms of the trust document. It is common for a trustee to have a discretion as to which of several beneficiaries to benefit and to what extent.

### Nominee

A person holding title to an asset on behalf of some other person. The nominee's duty is simply to obey the directions of that person as to how he should manage and account for it.

### Protector

A person who may, under the terms of a trust, be appointed to exercise some authority over how a trustee exercises his powers.

## Enforcer

Where a Purpose Trust is created an Enforcer must be appointed to make sure the trustees carry out the defined purpose, which otherwise would have no one able to represent its interests.

## Purpose Trust (strictly a non-charitable purpose trust)

A trust whose beneficiaries are neither individual human beings nor recognised charitable purposes but purposes of some other sort, such as the holding of shares in a Company.

## Guardian

Every Foundation must have a Guardian whose role is to make sure that the Foundation Council carries out the Founder's wishes. This is necessary because a Foundation need not supply information to its Beneficiaries who might otherwise have no one able to represent their interests.

## Charter

A Foundation must have a Charter, which is a public document setting out the name of the foundation, its objects, its initial endowment (if any) and what is to happen to any remaining assets upon its dissolution.

## Member

Every person who agrees to become a member of a company and whose name is entered on its register of members. The word is almost synonymous with the word Shareholder, except that Member can also describe those who have joined a Company limited by guarantee.

## Shareholder

A person who owns shares in a Company and is therefore the, or a, proprietor of it.

## Director

A person who, alone or with other members of the board, manages the affairs of a Company. Directors act as agents of the company, owe fiduciary duties to it and have a duty of care towards it. There are various sorts of director, for example: shadow directors; de facto directors; alternate directors; and executive directors, to name but a few.

## Memorandum

A statement signed by the persons who come together to set up a Company and providing basic information concerning its affairs and share capital as at the time of its creation.

## Article

Jersey's primary legislation is divided into Articles, whereas English and Guernsey legislation is divided into sections. The Jersey lawyer would say "Article 100 of the Companies Law" where his English counterpart would refer to "Section 100 of the Companies Act."

## Articles of Association

The detailed constitution of every Company setting out such things as the rights of its shareholders and how board meetings and general meetings of shareholders are to be conducted. Unless it asserts otherwise, every Company incorporated since April 1992 is assumed to have adopted the uniform Standard Table of Articles.

## Regulation

A Foundation must have Regulations which are set out in a private document recording how its Council and Guardian are to conduct themselves when carrying out its objects.

## Deed (strictly an English law term not recognised in Jersey law, although the word is widely used in Jersey)

The word Deed describes a formal written document whereby an interest, right or property passes between at least two parties. For a document to be a deed it must make clear the parties intended for it to be a deed and it should be signed by, witnessed for and delivered (i.e. handed over) by its signatories.

## Instrument

Another term for a formal written document often used as a synonym for the word Deed.

## DORA

An acronym for a Deed Of Retirement and Appointment of one person by another, almost always when a change is taking place to the identity of the trustee of a trust.

## Person

In law this can be either a physical human being or a legal creation recognised in law as having its own existence separate from that of the persons who created it, such as: a Company; a Foundation; a Separate Limited Partnership; a Limited Liability Partnership; and an Incorporated Limited Partnership.

## JFSC (The Jersey Financial Services Commission)

The body charged with the supervision of those persons (whether individuals or business entities) who engage for reward in the activities which it supervises with a view to protecting the reputation of the island and its financial services industry for probity and competence.

## Jersey Finance

The body charged with the promotion of Jersey's financial services industry and those who take part in it.

## CICRA (The Channel Islands Competition & Regulatory Authorities)

The body which regulates Jersey's postal, telecoms and harbours providers and which must review and permit or forbid certain merger and acquisition activity where significant market share limits are engaged.

## CIFO (The Channel Islands Financial Ombudsman)

The body to whom consumers may address certain complaints about the conduct of financial services providers in Jersey.

## Standard Table

The uniform set of Articles of Association all Companies incorporated since April 1992 are assumed to have adopted unless they make a declaration to the contrary. The Table may be adopted in whole or in part. Its English equivalent is described as Table A.

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