

Transfer of Registration of Foundations to an Overseas Jurisdiction

Migration Out—Guidance

Schedule 2, Part 1, 8 of The Foundations (Guernsey) Law, 2012 enables a Foundation to be removed from the Register for the purposes of becoming established as a Foundation in a jurisdiction outside Guernsey.

A Foundation **cannot** transfer registration unless:

- The Foundation's Constitution permits such removal.
- Before it applies to the Registrar for removal, it gives written notice to all its creditors and participants stating that it intends to so apply.

In addition, a Foundation cannot be removed from the Register if:

- The Foundation is bankrupt or is otherwise being wound up,
- A liquidator, receiver or administrator has been appointed, in relation to any property of the Foundation,
- An application has been made to a court, whether in Guernsey or elsewhere, to put the foundation into bankruptcy or to have it declared bankrupt, to have the Foundation wound up, for the approval of a composition, compromise or arrangement with creditors has been entered into in respect of it whereby its creditors will receive less than 100 pence in the pound, or for the appointment of a liquidator, receiver or administrator in relation to any property of the Foundation, and in each case the application has not been finally disposed of.

An application for registration as a Guernsey Foundation shall be made to the Registrar and must be in the form specified by the Registrar. An application shall include or be accompanied by:

- A duly completed migration out form
- A copy of the confirmation from Her Majesty's Procureur that he has no objection to the removal of the Foundation from the Register
- A copy of the confirmation from the Director of Income Tax that he has no objection to the removal of the Foundation from the Register
- Confirmation that the removal of the Foundation is not prohibited by the Foundations Constitution
- Confirmation that written notice of the intention to make application for removal has been given to all creditors and participants
- Confirmation that on the date of the removal of the Foundation 's name from the Register, the Foundation will be established under the law of the place outside Guernsey (a copy of the certificate of Registration or equivalent should be delivered to the Registrar as soon as practicable)
- Confirmation that the Foundation will continue to have legal personality in accordance with the law of the place outside Guernsey
- The appropriate fee

Please note: An application for removal from the Register may only be made by a Guernsey licensed fiduciary.

Upon receipt of a valid application the Registrar shall give notice of the proposed transfer for a period of not less than 28 days.