

FREEZE: Civil forfeiture laws in Guernsey updated

APRIL 2024

The Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023 (the **New Law**) comes into force **today** (26 April 2024).

The thrust of this new legislation is to broaden further the scope of the already broadened civil forfeiture law in Guernsey. Therefore, maximising Guernsey's ability to detain, freeze and forfeit property suspected of being the proceeds of unlawful conduct.

It is supported by various ancillary legislation:

- The Forfeiture of Assets in Civil Proceedings (*Commencement Amendment and Miscellaneous Provisions*) (*Bailiwick of Guernsey*) Regulations, 2024 (deals with commencement of the New Law, transitional provisions and the application of PPACE);
- *The Administrative Forfeiture of Assets (Forfeiture Notices)* (*Bailiwick of Guernsey*) Regulations, 2024 (Regulations relating to the giving of Forfeiture Notices);
- *The Forfeiture of Assets in Civil Proceedings (Codes of Practice)* (*Bailiwick of Guernsey*) Order, 2024 (bringing two codes of practice into force).

The New Law introduces some key changes that everyone associated with Guernsey's anti-money laundering regime should be alive to:

- **The broadened definition of "unlawful conduct"**
Previously unlawful conduct involved conduct which either took place inside the Bailiwick and was unlawful under the criminal laws, or took part in another country, was unlawful under the law of that country, and, had it taken place in the Bailiwick would have been unlawful here. The New Law goes a step further, introducing an additional limb of unlawful conduct that being conduct which occurs in a country outside of the Bailiwick which constitutes or is connected with the commission of a gross human rights violation and would be an offence if it occurred in the Bailiwick.
- **The extension of the types of property liable to forfeiture**
Previously, civil forfeiture was very narrow and principally was in respect of cash above GBP 1,000 and any credit balance on an account. The New Law broadens the scope significantly to include money and all other property (real or personal, immovable or moveable), things in action and other intangible or incorporeal property and cash. This broadening of the types of property liable to civil forfeiture under the New Law brings the Bailiwick in line with the UK's anti-money laundering regime.
- **The wider means by which forfeiture can occur**
Previously civil forfeiture could only be dealt with in the Royal Court. This made applications both costly

and time consuming. The New Law introduces the ability to:

- apply to the Magistrates Court for forfeiture in cases where the sum is less than GBP 25,000; and
- have property that has been detained under the New Law forfeited without a Court hearing when a forfeiture notice has been given to the relevant parties and an objection has not been received within the specified period.

Keep a look out in the coming weeks, when there will be further commentary on the new civil forfeiture regime in Guernsey.

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