

Changes to the civil forfeiture regime in Guernsey

UPDATE

Update prepared by Christopher Edwards and Iona Mitchell (Guernsey).

Guernsey's legislature has approved a draft Ordinance making changes to Guernsey's civil forfeiture regime.

Guernsey, like a number of other jurisdictions, has legislation in place to permit the forfeiture of the proceeds of crime in civil proceedings. This enables criminal proceeds to be removed from circulation by way of a court order forfeiting seized or frozen assets.

Changes are being made to Guernsey's civil forfeiture regime under The Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 (the **Law**). In a previous Update ([here](#)), we wrote about proposals to shift the burden of proof and introduce a summary procedure in 'no consent' cases.

The Forfeiture of Money, Etc. in Civil Proceedings (Bailiwick of Guernsey) (Amendment) Ordinance, 2022 (the **Ordinance**), which amends the Law to bring these changes into effect, has now been approved by the States of Deliberation ([here](#)).

Section 3 of our previous Update provides an overview of the proposals. The Ordinance also makes the following amendments to the civil forfeiture regime:

- the Committee for Home Affairs has the power to make regulations (after consultation with other authorities) to introduce a procedure under which a forfeiture order can be reconsidered if new evidence comes to light
- the authorities are not liable for costs or damages in respect of a civil forfeiture application (this is without prejudice to an award of damages under the Human Rights (Bailiwick of Guernsey) Law, 2000, and
- an existing power for the court to award compensation under the Law has been revised to specify that it applies to loss as a result of an act or omission made in bad faith.

The Ordinance will come into force at a future date, which is yet to be announced.

Separately to these changes, on 24 November 2021 the States approved proposals set out in a Policy Letter dated 27 September 2021 ([here](#)) to make various changes to the law concerning financial crime. This included technical amendments to the civil forfeiture regime, such as to extend the type of property that may be covered by a civil forfeiture order. The draft legislation making these changes has not yet been released.

Contacts



Christopher Edwards
Partner | Advocate
Mourant Ozannes (Guernsey) LLP
+44 1481 739 320
christopher.edwards@mourant.com



Iona Mitchell
Knowledge Lawyer | Advocate
Mourant Ozannes (Guernsey) LLP
+44 1481 731 406
iona.mitchell@mourant.com

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