

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The Disclosure (Bailiwick of Guernsey) Regulations, 2007 *

[CONSOLIDATED TEXT]

NOTE

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* G.S.I. No. 34 of 2007; as amended by the: Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022 (No. ** of 2022); Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2010 (G.S.I. No. 50 of 2010); Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2011 (G.S.I. No. 23 of 2011); Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2014 (G.S.I. No. 50 of 2014); Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2022 (G.S.I. No. 104 of 2022). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207).

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The Disclosure (Bailiwick of Guernsey) Regulations, 2007

ARRANGEMENT OF REGULATIONS

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- 2A. Request for additional information from third parties.
3. Offence of failure to provide additional information.
4. Defence.
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The Disclosure (Bailiwick of Guernsey) Regulations, 2007

THE HOME DEPARTMENT, in exercise of the powers conferred on it by section 11 of the Disclosure (Bailiwick of Guernsey) Law, 2007^a and all other powers enabling it in that behalf, hereby makes the following Regulations: –

Form and manner of disclosure.

1. (1) Save when paragraph (2) applies, a person shall make a disclosure to a prescribed police officer [or another FIU officer] under section 1, 2 or 3 of the Disclosure (Bailiwick of Guernsey) Law, 2007 (the "**Law of 2007**") by using the online reporting facility available on the website of the [Financial Intelligence Unit].

(2) Subject to the consent of an authorised officer, a person may make a disclosure to a prescribed police officer [or another FIU officer] under section 1, 2 or 3 of the Law of 2007 –

- (a) by using the form set out in the Schedule to these Regulations ("**the Form**"), and
- (b) in compliance with the requirements indicated upon the Form.

(3) A completed Form, together with any accompanying

^a Approved by the States of Deliberation on 30th May, 2007.

information shall be –

- (a) delivered by post, or hand, to the addressee,
- (b) transmitted by electronic mail to the electronic address,
or
- (c) sent by facsimile transmission to the telephone number,

indicated upon the Form.

(4) Any information entered upon, or accompanying, the Form shall appear, or be supplied, in a legible format.]

NOTES

Regulation 1 was substituted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2011, regulation 2, with effect from 13th June, 2011.¹

In regulation 1, first, the words "or another FIU officer" in square brackets, wherever occurring, were inserted and, second, the words in the second pair of square brackets in paragraph (1) were substituted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 1, respectively paragraph (7) and paragraph (2), with effect from 28th December, 2022.

Request for additional information.

2. (1) A [prescribed police officer] [or another FIU officer] may, by notice in writing served upon any person who has made a disclosure under section 1, 2 or 3 of the Law of 2007 ("**the initial disclosure**"), require that person to provide the officer (or any other specified officer) with such additional information relating to the initial disclosure as may be specified –

Consolidated text

- (a) within such period which, subject to paragraph (3), shall not be less than 7 days, and
- (b) in such form and manner, as may be specified.

(2) A [prescribed police officer] [or another FIU officer] may by written notice extend the period specified under paragraph (1)(a) for such period of time as he may specify in writing.

(3) Where a relevant officer is satisfied that the provision of additional information is reasonably required as a matter of urgency he may, for the purposes of paragraph (1)(a) –

- (a) specify, or
- (b) authorise any [prescribed police officer] [or another FIU officer] to specify,

such reasonable period of less than 7 days within which the information must be provided, as he thinks fit.

- (4) For the purposes of paragraph (3), "**a relevant officer**" means –
- (a) a member of the salaried police force of the Island of Guernsey who holds the rank of inspector or above,
 - [(aa) the Head of the Financial Intelligence Unit, or such person as the Head of the Financial Intelligence Unit may authorise for this purpose,

- (ab) the Director of the Economic and Financial Crime Bureau, or such person as the Director of the Economic and Financial Crime Bureau may authorise for this purpose,]
- (b) a member of any police force which may be established by the States of Alderney who holds the rank of inspector or above, or
- (c) a customs officer of the grade of senior investigation officer or above.

NOTES

In regulation 2,

the words "prescribed police officer" in square brackets, wherever occurring, were substituted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2010, respectively regulation 2 and regulation 3, with effect from 17th May, 2010;

first, the words "or another FIU officer" in square brackets, wherever occurring, and, second, paragraph (4)(aa) and paragraph (4)(ab) were all inserted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 1, respectively paragraph (7) and paragraph (3), with effect from 28th December, 2022.

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

[Request for additional information from third parties.]

2A. (1) This regulation applies where –

- (a) a person has made a disclosure to a prescribed police

officer [or another FIU officer] under section 1, 2 or 3 of the Law of 2007 ("**the initial disclosure**"), and

- (b) on the basis of the initial disclosure, the officer has reasonable cause to believe that another person ("**a third party**") possesses relevant information.

(2) A prescribed police officer [or another FIU officer] may, by notice in writing served upon a third party, require that third party to provide the officer (or any other specified officer) with such additional information relating to the initial disclosure as may be specified –

- (a) within such period which, subject to paragraph (4), shall not be less than 7 days, and
- (b) in such form and manner,

as may be specified.

(3) A prescribed police officer [or another FIU officer] may by written notice extend the period specified under paragraph (2)(a) for such period of time as he may specify in writing.

(4) Where a relevant officer is satisfied that the provision of additional information is reasonably required as a matter of urgency he may, for the purposes of paragraph (2)(a) –

- (a) specify, or
- (b) authorise any prescribed police officer [or another FIU officer] to specify,

such reasonable period of less than 7 days within which the information must be provided, as he thinks fit.

(5) For the purposes of this regulation –

"relevant information" means information which is, or is likely to be, of assistance to any enquiries that a prescribed police officer [or another FIU officer] reasonably believes to be necessary in order to establish –

- (a) whether any person is engaged in money laundering, [the proliferation of weapons of mass destruction or the financing of the proliferation of weapons of mass destruction, as the case may be,] or
- (b) that certain property is or is derived from the proceeds of criminal conduct, and

"a relevant officer" has the same meaning as it has for the purposes of regulation 2(3).]

NOTES

Regulation 2A was inserted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2014, regulation 2, with effect from 7th August, 2014.

In regulation 2A, first, the words "or another FIU officer" in square brackets, wherever occurring, and, second, the words in square brackets in paragraph (a) of the definition of the expression "relevant information" were all inserted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 1, respectively paragraph (7) and paragraph (4), with effect from 28th December, 2022.

Offence of failure to provide additional information.

3. (1) Subject to regulation 4, a person who fails to provide additional information which he is required to provide under a notice given under regulation 2 [or 2A] –

- (a) within the period specified, and
- (b) in the form and manner specified, is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable –

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale or to both, or
- (b) on conviction or indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

NOTE

In regulation 3, the word, figure and letter in square brackets were inserted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2014, regulation 3, with effect from 7th August, 2014.

Defence.

4. (1) A person does not commit an offence under regulation 3 if –

- (a) he has a reasonable excuse for not disclosing the additional information or other matter, or
- (b) he is a professional legal adviser and the additional

information came to him in privileged circumstances.

(2) Information comes to a professional legal adviser in privileged circumstances if it is communicated or given to him –

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(3) But paragraph (2) does not apply to information which is communicated or given with a view to furthering a criminal purpose.

Interpretation.

5. (1) In these Regulations, unless the context requires otherwise –

["**authorised officer**" means the head of the Financial Investigation Unit or other member of the Financial Investigation Unit of the rank of Senior Investigation Officer or above,]

[...]

[...]

"**the Form**" means the form set out in the Schedule to these Regulations,

"**Law of 2007**" means the Disclosure (Bailiwick of Guernsey) Law, 2007,

[...]

"**specified**" means specified in writing,

and other expressions have the same meanings as in the Law of 2007.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

NOTES

In regulation 5,

the definition of the expression "authorised officer" in paragraph (1) was inserted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2011, regulation 3, with effect from 13th June, 2011;

the words omitted in the second, third and fourth pairs of square brackets in paragraph (1) were revoked by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 1(5), with effect from 28th December, 2022.²

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

^b Ordres en Conseil Vol. XIII, p. 355.

Citation and commencement.

6. These Regulations may be cited as the Disclosure (Bailiwick of Guernsey) Regulations, 2007 and shall come into force on the 17th December, 2007.

[SCHEDULE
FORM OF DISCLOSURE

Regulations 1 and 5

DISCLOSURE FORM
STRICTLY PRIVATE AND CONFIDENTIAL

Please forward with covering letter to:		
The Guernsey Border Agency, [FIU]: [Financial Intelligence Unit], Ozanne Hall, Mignot Plateau, Cornet Street, St Peter Port, GY1 1LF		
Tel: 714081	Fax: 710466	E-mail:
fiu@gba.gov.gg (not secure)		

Reporting MLRO:	
Tel.:	E-mail:

Your reference		
[FIU] reference		
Date		Consent request? Yes/No

1. MAIN DISCLOSURE SUBJECT

Person

Title	
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Consolidated text

Full name (<i>please include former and other names</i>)	
Is the subject a Politically Exposed Person? (<i>please give details</i>)	
Gender	
Date of birth/Alias date of Birth	
Estimated age	
Place of Birth	
Town of Birth	
Nationality(ies)	
Occupation	
Employer	
Address(es) including postal codes	
Country of Residence	
Contact details, e.g. telephone, fax, email	
Passport number(s) and dates	
Passport issuing country(ies)	
Other identification numbers and dates, e.g. national identity card, driving licence etc. (<i>please specify type</i>)	
Any other relevant information	

and/or Organisation

Type of Organisation i.e. company, trust, non-profit organisation or other	
--	--

Consolidated text

Name (<i>please include former and other names</i>)	
Legal registration/ identification number	
Address(es) including postal codes	
Contact details, e.g. telephone, fax, email	
Place of incorporation/date	
Country registered/established	
Date registered/established	
Any other relevant information	
(<i>Trust</i>) Country of Administration Country Settled	
(<i>non-profit organisation</i>) Area of Benefit Area of Operation	

2. ASSOCIATED SUBJECTS (including organisation officials)

Official Type	
Title	
Full name (<i>please include former and other names</i>)	
Date of birth	
Address(es) including postal codes	

For further associated subjects, please copy the formats used above

3. RELEVANT ACCOUNTS

Account Name	
Account Holder(s)	
Financial Institution/ SWIFT/BIC address	
Account/product type, e.g. investment, company etc.	
Account number and sort code	
Date account opened	
Date account closed	
Account balance/value	
Balance/value date	

For additional accounts or products, please copy the format used above

4. RELEVANT TRANSACTIONS

Please note that the obligation to report suspicion applies to all types of transaction and attempted transaction, including attempted transactions in circumstances where there is no existing business relationship with the disclosure subject and no such business relationship is subsequently established.

Transaction date	
Transaction amount	
Transaction type/method	
Transaction parties (<i>please use person/organisation format as above where more detailed information is available</i>)	

Was the transaction carried out?	
Was the transaction made in the context of an existing business relationship? If not, was a business relationship then established?	

For additional transactions, please copy the format used above

5. CLIENT RELATIONSHIP

Current status of relationship	
Date relationship commenced	
Date relationship ended	

6. REASONS FOR SUSPICION

Please give full account of circumstances and grounds for suspicion

This disclosure is made under the <i>(please delete as appropriate)</i>	Terrorism and Crime (Bailiwick of Guernsey) Law, 2002
	Disclosure (Bailiwick of Guernsey) Law, 2007

7. DETAILS OF ANY REQUEST FOR CONSENT

Please specify the act or transaction for which consent is sought

8. ADDITIONAL INFORMATION (including explanation of any attachments)

NB - Please also provide as much information and documentation as possible to demonstrate why suspicion has been raised and to enable the [FIU] to fully understand the purpose and intended nature of the business relationship, e.g. copy identification and account opening documents, account statements, contract notes, minutes, correspondence, structure charts, transcripts, etc.]

NOTES

The Schedule was substituted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2014, regulation 4, with effect from 7th August, 2014.³

In the Schedule,

the acronym "FIU" in square brackets, wherever occurring, was substituted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 1(6), with effect from 28th December, 2022;

the words "Financial Intelligence Unit" in square brackets, wherever occurring, were substituted by the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022, section 11, with effect from 21st December, 2022.

EXPLANATORY NOTE

*(This note is not part of the Regulations)***

These Regulations prescribe the form and manner in which a disclosure under the Disclosure (Bailiwick of Guernsey) Law, 2007 must be made. Regulation 2 provides for the circumstances in which a police officer may require a person to provide additional information relating to a disclosure. Regulation 3 makes it an offence to fail to provide any additional information, which has been requested under the regulations, within the period and in the form specified by a police officer. Regulation 4 provides that no offence is committed where a person has a reasonable excuse for not disclosing the information or the person is a professional legal adviser and the information came to him in privileged circumstances.

¹ Prior to its substitution, regulation 1 was amended by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2010, regulation 2, with effect from 17th May, 2010.

² These words omitted, being the definitions of the expressions "Financial Intelligence Service", "Financial Investigation Unit" and "prescribed police officer" were originally, respectively, substituted, inserted and inserted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2010, regulation 5(a), regulation 5(b) and regulation 5(c), with effect from 17th May, 2010.

** The text of this Explanatory Note is as it was when the Statutory Instrument was first made – that is to say that the Explanatory Note has not been updated to take account of any changes made by subsequent amending Statutory Instruments with their own Explanatory Notes.

3 Prior to its substitution, the Schedule was amended by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2010, regulation 5, with effect from 17th May, 2010; and substituted by the Disclosure (Bailiwick of Guernsey) (Amendment) Regulations, 2011, regulation 4, with effect from 13th June, 2011.