



GUERNSEY STATUTORY INSTRUMENT

2019 No. 81

**The Disclosure (Bailiwick of Guernsey) (Information)
Regulations, 2019**

<i>Made</i>	22 nd July, 2019
<i>Coming into operation</i>	22 nd July, 2019
<i>Laid before the States</i>	, 2019

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 11A and 16 of the Disclosure (Bailiwick of Guernsey) Law, 2007^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Application.

1. (1) These regulations apply where the Financial Intelligence Service has –

- (a) received a report within section 11A of the 2007 Law,
and

^a Order in Council No. XVI of 2007; amended by Ordinance No. XXXIX of 2008; No. VII of 2009; Nos. XIV, XIX and XXXVII of 2010; Nos. XVI and LIII of 2014; No. XXXIX of 2015; No. IX of 2016; and Nos. XXVI, XXVII, XLVII, XLIX of 2018.

- (b) reasonably believes that –
 - (i) a person ("**the relevant person**") possesses information relating to that report, and
 - (ii) the information is necessary or expedient for the proper discharge by the Financial Intelligence Service of its functions.

(2) For the avoidance of doubt and without limitation, information relates to a report if it is required in order to provide a response to a request for information included in that report, including where it is required to establish whether that response should be negative, and irrespective of whether or not a previous request has been made under these regulations or otherwise for information that relates to that report.

(3) A response is negative for the purposes of paragraph (2) if it specifies that -

- (a) particular facts or circumstances referred to in a report do not exist, or
- (b) information requested in a report is not available within the Bailiwick.

Provision of information.

2. A prescribed police officer may, by notice in writing served upon the relevant person, require the relevant person to provide that officer (or any other

specified police officer) with such information as may be specified -

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

as may be specified.

3. A prescribed police officer may by written notice extend the period specified under regulation 2 for such period of time as that officer may specify in writing.

4. Where a relevant officer is satisfied that the provision of information is reasonably required as a matter of urgency the relevant officer may, for the purposes of regulation 2 -

- (a) specify, or
- (b) authorise any prescribed police officer to specify,

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

Offence of failure to provide information.

5. (1) Subject to regulation 6, a person who fails to provide information which that person is required to provide under a notice given under regulation 2 -

- (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.

Defence.

- 6. (1) A person does not commit an offence under regulation 5 if –
 - (a) that person has a reasonable excuse for not providing the information, or
 - (b) that person is a professional legal adviser and the information came to that person in privileged circumstances.
- (2) Information comes to a professional legal adviser in privileged circumstances if it is communicated or given to that adviser –
 - (a) by (or by a representative of) a client of the adviser 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.

7. In these Regulations, unless the context requires otherwise,

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

"**relevant officer**" has the same meaning as it has for the purposes of regulation 2(3) of the Disclosure (Bailiwick of Guernsey) Regulations, 2007^b,

"**specified**" means specified in writing, and related expressions shall be construed accordingly,

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

^b G.S.I. No. 34 of 2007; as amended by G.S.I. No. 50 of 2010; No. 23 of 2011; and No. 50 of 2014.

Citation and commencement.

8. These Regulations may be cited as the Disclosure (Bailiwick of Guernsey) (Information) Regulations, 2019, and shall come into force on the day that they are made.

Dated this 22nd day of July, 2019

A handwritten signature in cursive script that reads "Mary Lowe". The signature is written in black ink and is positioned above the printed name.

M. M. LOWE

President of the States Committee for Home Affairs

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations govern the obtaining of information by the Financial Intelligence Service where a report has been made by a party listed in section 11A of the Disclosure (Bailiwick of Guernsey) Law, 2007 and as a result, the Financial Intelligence Service reasonably believes that a person within the Bailiwick possesses or controls information which is necessary or expedient for the proper discharge by the Financial Intelligence Service of its functions.

Where the Regulations apply, a prescribed police officer, by notice in writing served upon the relevant person, may require that person to provide the officer (or any other specified police officer) with such information relating to the report as may be specified in writing within such period which, in usual circumstances shall not be less than 7 days, and in such form and manner, as may be specified.

These Regulations come into force on the day that they are made.

