

# The Criminal Justice (Proceeds of Crime and Drug Trafficking) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023

THE STATES, in pursuance of their Resolution of the 30<sup>th</sup> September 2022<sup>a</sup>, and in exercise of the powers conferred on them by sections 53A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>b</sup>, sections 71A and 72 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>c</sup>, and all other powers enabling them in that behalf, hereby order:-

## Amendment of Proceeds of Crime Law and Drug Trafficking Law: "saisie" proceedings.

1. (1) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and the Drug Trafficking (Bailiwick of Guernsey) Law, 2000 are amended as follows.

(2) In both Laws –

(a) in section 7(1) after "section 8" insert "and section 8A",

(b) in section 7(2) and (3) after "section 8(2)" insert "and section 8A",

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<sup>a</sup> Article X of Billet d'Etat No. XVII of 2022.

<sup>b</sup> Ordres en Conseil Vol. XXXIX, p. 137; this enactment has been amended.

<sup>c</sup> Ordres en Conseil Vol. XL, p. 131; this enactment has been amended.

(c) at the start of section 8(1) insert "Subject to section 8A,"  
and

(d) after section 8 insert the following section –

**"Treatment of real property vested by "saisie" proceedings.**

8A. (1) Subsection (2) applies where -

(a) a final vesting order is made in relation to the  
real property of a debtor ("D"), and

(b) D is subsequently a defendant in criminal  
proceedings instituted not more than six years  
after that final vesting order is made, and a  
confiscation order is made in those criminal  
proceedings.

(2) Subject to subsection (3), where this subsection applies,  
the relevant amount shall, for the purposes of realising the amount in which  
the confiscation order is made, be treated as a gift made by D that is caught by  
this Law.

(3) In the criminal proceedings in which the confiscation  
order is made, the court may treat some or all of the relevant amount other  
than as a gift made by D that is caught by this Law, where it considers that to  
do so is in the interests of justice.

(4) For the avoidance of doubt, subsection (2) applies

whether or not D is connected in any way to the person in whom the real property has been vested by and under the final vesting order.

(5) In this section –

- (a) "**the relevant amount**" means the market value of the real property subject to the final vesting order at the time of the making of that order, and
- (b) other words and phrases in this section have the same meaning as in the Saisie Procedure (Simplification) (Bailiwick of Guernsey) Order, 1952."

**Extent.**

- 2. This Ordinance has effect throughout the Bailiwick of Guernsey.

**Citation.**

- 3. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime and Drug Trafficking) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023.

**Commencement.**

- 4. This Ordinance shall come into force on the day appointed for this purpose by regulations made by the States of Guernsey Committee for Home Affairs; and different dates may be appointed for different provisions and for different purposes.