

GUERNSEY STATUTORY INSTRUMENT

2024 No.24

**The Terrorist Asset-Freezing (Bailiwick of Guernsey)  
Law, 2011 (Amendment) Regulations, 2024**

*Made*

*6<sup>th</sup> March, 2024*

*Coming into operation*

*On being made*

*Laid before the States*

*20<sup>th</sup> March, 2024*

THE POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 37A and 38 of the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011<sup>a</sup>, and all other powers enabling it in that behalf, hereby makes the following Regulations: -

**Amendment of the Law.**

1. (1) The Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 is amended as follows.

(2) In subsection (2) of section 9 (freezing of funds and economic resources) -

(a) in paragraph (a)(ii), for ", and" substitute ".", and

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<sup>a</sup> Order in Council No. XI of 2011; this enactment has been amended.

(b) delete paragraph (b).

(3) In sections 11(1) and 13(1), in each case before "if P knows", insert "(directly or indirectly)".

(4) After section 13, insert -

**"Provisions supplemental to sections 10 to 13.**

13A. (1) In sections 10 and 11, references to financial services include services that are related to, or otherwise ancillary to, financial services.

(2) In sections 10 to 13, references to making funds, financial services or economic resources (as the case may be) available to, or for the benefit of, a designated person, include -

(a) making funds, financial services or economic resources available to or for the benefit of persons or entities -

(i) owned or controlled, directly or indirectly, by designated persons, or

(ii) acting on behalf of, or at the direction of, designated persons, and

(b) making funds, financial services or economic resources available wholly or jointly to or for the benefit of designated persons or persons within paragraph (a)."

(5) In section 15 (licences), after subsection (3) insert -

"(3A) In deciding whether to grant a licence under this section, and whether to impose conditions, the Policy & Resources Committee must seek to ensure that the grant of a licence will not lead to -

- (a) a UN sanctions measure or a UK sanctions measure being contravened, (whether by issuing a licence in circumstances that are not permitted by the UN sanctions measures or UK sanctions measure in question, or otherwise), or
- (b) the purpose of the person's designation being frustrated.

(3B) In subsection (3A), "**a UN sanctions measure**" and "**a UK sanctions measure**" have the meanings given in section 1 of the Sanctions (Bailiwick of Guernsey) Law, 2018."

(6) In subsection (1) of section 17 (reporting obligations of relevant institutions) -

- (a) immediately before paragraph (a) delete "if",
- (b) at the start of paragraph (a) insert "if",
- (c) at the end of paragraph (a)(iii) delete "and",

(d) at the end of paragraph (a)(iv) for "." substitute ", and",  
and

(e) after paragraph (a) insert -

"(b) of any assets frozen or actions taken in  
compliance with a sanctions measure,  
including attempted transactions."

(7) After section 32 (meaning of "relevant institution"), insert -

**"Meaning of "owned", "held", "controlled", "directly" and "indirectly".**

**32A. (1)** A reference in this Law to funds or economic resources  
**"owned, held or controlled"** by a person includes a reference to -

(a) funds or economic resources owned, held or  
controlled directly or indirectly, and wholly or  
jointly, by that person,

(b) funds or economic resources in which the  
person has any direct or indirect legal or  
equitable interest, regardless of whether the  
interest is held jointly with any other person  
and regardless of whether any other person  
holds an interest in the funds or economic  
resources,

(c) any tangible property (other than immovable  
property), or bearer security, that is comprised

in funds or economic resources and is in the possession of the person.

(2) The fact that funds or economic resources are owned, held or controlled directly or indirectly by a person ("P") jointly with another person or otherwise does not prevent those funds being treated as being owned, held or controlled by P for the purposes of this Law (regardless of whether P is a designated person).

(3) A reference in this Law to funds or economic resources (an "**item**") being owned, held or controlled "**indirectly**" by a person ("P") includes a reference to the item being owned, held or controlled by another person ("T"), who is an individual, if -

- (a) T acts in relation to the item as the employee, agent or nominee of P, at the direction of P or otherwise on behalf of P, or
- (b) by virtue of any other arrangement between T and P, it is reasonable to believe that T will act in relation to the item -
  - (i) in accordance with P's directions or instructions, or
  - (ii) with P's consent or concurrence.

(4) In this Law, a person who is not an individual ("C") is owned, held or controlled "**directly or indirectly**" by another person ("P") if one or both of the following conditions are met.

(5) The first condition is that P -

- (a) holds directly or indirectly more than 50% of the shares in C,
- (b) holds directly or indirectly more than 50% of the voting rights in C, or
- (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

(6) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

(7) For the purposes of this Law a relevant item is also owned, held or controlled "**directly or indirectly**" by a person ("P") if the relevant item is owned, held or controlled by another person who is owned, held or controlled directly or indirectly by P, or by a chain of such other persons.

(8) In paragraph (7) "**relevant item**" means -

- (a) funds or economic resources, or
- (b) a person who is not an individual.

**Interpretation: section 32A(5).**

**32B.** (1) Part 2 of the Beneficial Ownership (Definition) Regulations, 2017 applies to the interpretation of section 32A(5).

(2) In addition, the following provisions apply to the interpretation of section 32A(5).

(3) The reference to "**the board of directors**" includes, in the case of a person who does not have such a board, a reference to the equivalent management body of that person.

(4) A person holds a share "**indirectly**" if the person has a majority stake in another person and that other person -

- (a) holds the share in question, or
- (b) is part of a chain of persons -
  - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
  - (ii) the last of whom holds the share.

(5) A person holds a right "**indirectly**" if the person has a majority stake in another person and that other person -

(a) holds that right, or

(b) is part of a chain of persons -

(i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and

(ii) the last of whom holds that right.

(6) For these purposes, a person ("**A**") has a "**majority stake**" in another person ("**B**") if -

(a) A holds a majority of the voting rights in B,

(b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,

(c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or

(d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(7) In the application of this Law to the right to appoint or remove a majority of the board of directors, a person ("A") is to be treated as having the right to appoint a director if -

(a) any person's appointment as director follows necessarily from that person's appointment as director of A, or

(b) the directorship is held by A itself."

**Citation and commencement.**

2. These Regulations may be cited as the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 (Amendment) Regulations, 2024 and shall come into force on being made.

Dated this 6<sup>th</sup> day of March, 2024

A handwritten signature in black ink, appearing to read "L. S. Trott". The signature is written in a cursive, slightly slanted style.

DEPUTY L. S. TROTT

President of the Policy & Resources Committee

For and on behalf of the Committee

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## EXPLANATORY NOTE

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

These Regulations make several minor amendments to the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 to make clarificatory provision in relation to licences granted under the Law, the scope of the reporting obligations of relevant institutions under the Law, and the scope of the prohibition on dealing with frozen funds. They also insert several definitions.

The Regulations come into force on being made.