

**The Criminal Justice (Proceeds of Crime –
Seized Assets Fund) (Bailiwick of Guernsey)
(Amendment) Ordinance, 2024**

THE STATES, in pursuance of their Resolutions of the 25th March, 2021^a, 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^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Proceeds of Crime Law.

1. (1) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 is amended as follows.

(2) After section 48N insert -

"Seized Assets Fund

Seized Assets Fund.

48O. (1) There shall continue to be a fund held by the States of Guernsey known as the Seized Assets Fund ("**the Fund**").

(2) There shall be paid into the Fund –

^a Article XII of Billet d'État No. VIII of 2021.

^b Ordres en Conseil Vol. XXXIX, p. 137. This enactment has been amended.

- (a) proceeds of the disposition of seized assets,
- (b) money paid to the States of Guernsey (or any committee thereof) by a jurisdiction outside the Bailiwick in respect of seized assets, and
- (c) any other sums payable into the Fund under any other enactment.

(3) There shall be deducted from all payments into the

Fund –

- (a) costs associated with the relevant seized assets' seizure, confiscation or forfeiture (as the case may be),
- (b) sums paid to victims of offences associated with the relevant seized assets, in reimbursement of losses suffered by those victims in consequence of those offences, and
- (c) sums paid under an asset sharing agreement in respect of the relevant seized assets.

(4) All monies in the account of the Fund shall be divided and paid out in accordance with Schedule 11.

Seized Assets Management Board.

48P. (1) There is established a body to be known as the Seized

Assets Management Board ("**the Board**").

(2) A purpose of establishing the Board is to facilitate compliance with relevant international standards within the meaning of section 4 of the Economic Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022.

(3) Schedule 12 shall have effect as respects the constitution of the Board.

(4) The functions of the Board are –

- (a) to oversee the administration of the Fund,
- (b) to make deductions from payments into the Fund for the purpose of making of payments and recovering costs in accordance with section 48O(3), and the division of monies in the Fund in accordance with Schedule 11,
- (c) to report to the States on the Fund in accordance with section 48Q,
- (d) to publish or arrange for the publication on the States of Guernsey website from time to time such other information relating to the Fund as it thinks fit for the purpose of ensuring that the public is properly informed about the Fund,

- (e) any functions assigned to it by or under any enactment or any Resolution of the States, and
- (f) such other functions as are incidental or conducive to, or otherwise connected with, any of the above.

Seized Assets Management Board: reporting.

48Q. (1) At such periodicity as the States may from time to time resolve, or in the absence of such resolution, once a year within the first three months of the year, the Board shall report to the States –

- (a) on the Fund in general, and
- (b) on the Internal Fund (within the meaning of paragraph 1 of Schedule 11), including, but not limited to, the persons or classes of persons to whom, and the purposes for which, monies have been paid out thereof,

in such terms, subject to regulations made under subsection (2), as it thinks fit.

(2) The Committee for Home Affairs may make regulations making provision in respect of the duty of the Board to report to the States on the Fund and the Internal Fund imposed by subsection (1).

(3) Without limitation, regulations under subsection (2) may make provision in relation to the categories of information to be included in, and excluded from, such reports.

Exclusion of liability.

48R. (1) Subject to subsection (2), no person ("P") is to be –

- (a) liable in damages, or
- (b) where an individual, personally liable in any civil proceedings,

in respect of anything done or omitted to be done in the discharge or purported discharge of P's functions, or functions delegated to P, under sections 48O to 48Q, or Schedule 11 or 12, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

Interpretation.

48S. (1) In sections 48O to 48R –

"**asset sharing agreement**" means an agreement between the States of Guernsey and the government of a jurisdiction outside the Bailiwick in respect of the reciprocal sharing of the proceeds of disposition of seized assets,

"**proceeds of the disposition of seized assets**" means in the case of property other than money, the proceeds of sale on disposition of the property, and in the case of property that is

money, the amount of that money,

"**property**" includes real property, and

"**seized assets**" means any property confiscated, forfeited or seized under any of the enactments specified in subsection (2), including, for the avoidance of doubt –

- (a) any subordinate legislation made thereunder, and
- (b) for the purposes of the definition of "asset sharing agreement", any equivalent enactment, and subordinate legislation made thereunder, in force in the relevant jurisdiction outside the Bailiwick.

(2) The enactments referred to in the definition of "seized assets" in subsection (1) are –

- (a) the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,
- (b) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (c) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,

- (d) the Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001,
- (e) the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002,
- (f) the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006,
- (g) the Forfeiture of money, etc. in Civil Proceedings (Bailiwick of Guernsey) Law, 2007, and
- (h) the Cash Controls (Bailiwick of Guernsey) Law, 2007.

(3) The Committee may amend subsection (2) by regulations."

(4) After Schedule 10, insert the Schedules 11 and 12 set out in Schedules 1 and 2.

Transitional provision.

2. For the avoidance of doubt, any monies in the Fund on commencement of this Ordinance shall be divided in accordance with the proportions set out in paragraph 1 of Schedule 11 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, inserted by Schedule 1 to this Ordinance.

Extent.

3. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

4. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime – Seized Assets Fund) (Bailiwick of Guernsey) (Amendment) Ordinance, 2024.

Commencement.

5. This Ordinance shall come into force on 26th April, 2024.

SCHEDULE 1

Section 1(4)

"SCHEDULE 11

Section 48O(4)

Division of monies in the Fund.

1. (1) Subject to the provisions of any regulations made under subparagraph (2), monies in the Fund shall be divided between an account to be held by the States of Guernsey, to be called the Internal Fund, and the Social Investment Fund, in the following proportions -

(a) the Internal Fund: 80%,

(b) the Social Investment Fund: 20%.

(2) The Committee may make regulations providing for monies in the Fund allocated to the States of Guernsey Social Investment Fund to be used for other community purposes in circumstances prescribed in the regulations.

(3) For the purposes of this paragraph, "**other community purposes**" means purposes other than the purposes specified in paragraph 2(1) assessed by the Committee to be of benefit to the wider community of the Bailiwick or a section thereof, including, but not limited to, charitable, cultural, recreational and educational purposes, and "**charitable purposes**" has the meaning given in the Charities etc. (Guernsey and Alderney) Ordinance, 2021.

(4) For the purposes of this paragraph and for the avoidance of doubt, "**the Social Investment Fund**" means the Social Investment Fund LBG, a

charity and company limited by guarantee registered in Guernsey.

The Internal Fund.

2. (1) Subject to subparagraphs (2) and (3), the monies in the Internal Fund shall be paid out by the Committee from time to time to such persons, and in such sums, as they think fit for the purposes of –

- (a) improving the performance of the criminal justice system in the Bailiwick (including, but not limited to, asset recovery),
- (b) the effective implementation of international standards relating to the prevention of economic crime, and
- (c) the reduction of crime, and of the damage caused by crime, in the Bailiwick.

(2) Before paying out monies under subparagraph (1), the Committee must consult the Committee for Home Affairs.

(3) When paying out monies under subparagraph (1), the Committee shall have regard to any guidance relating to such payments out given to the Committee from time to time for this purpose by His Majesty's Procureur.

(4) Except to the extent that His Majesty's Procureur advises that any such guidance is operationally sensitive, and for that reason should not be published, guidance under subparagraph (3) shall be published on the States of Guernsey website."

SCHEDULE 2

Section 1(4)

"SCHEDULE 12

Section 48P(3)

Membership of the Board.

1. The following shall be members of the Board –
 - (a) His Majesty's Procureur,
 - (b) His Majesty's Comptroller,
 - (c) a member of the Committee appointed by the Committee for this purpose from time to time,
 - (d) a member of Committee for Home Affairs appointed by that Committee for this purpose from time to time,
 - (e) the Chief of Police,
 - (f) the States Treasurer, and
 - (g) such other officers of the States of Guernsey and officers of police as the members may from time to time appoint, including for the purpose of attending in the absence of other members.

Quorum.

2. The quorum of the Board is five members, who must include –

- (a) His Majesty's Procureur or His Majesty's Comptroller,
- (b) a member of the Committee, and
- (c) a member of Committee for Home Affairs

Procedure.

3. (1) The validity of any proceedings of the Board shall not be affected by any vacancy among the members of the Board or by any defect in the appointment of any such member.

(2) The Board shall keep proper minutes of its proceedings.

(3) Subject to paragraph 2 and subparagraphs (1) and (2) of this paragraph, the Board is free to decide the procedure of its meetings; and for the avoidance of doubt and without limitation, the Board may, if it thinks fit, transact any business by the circulation of papers to all of the members of the Board, or by a telephone or video conference at which each member joining in that telephone or video conference call can hear each other member.

Interpretation.

4. In this Schedule, references to His Majesty's Procureur and His Majesty's Comptroller include references to His Majesty's Receiver General and His Majesty's Deputy Receiver General respectively."