



In the Royal Court of the Island of Guernsey

The

Orders of the Royal Court

II

2024

IN THE ROYAL COURT OF GUERNSEY

The 23rd day of April, 2024 before Sir Richard James McMahon, Bailiff; present:-
Stephen Murray Jones, OBE, Steven John Morris, Esquires, Joanne Marie Wyatt,
Stuart Michael Crisp, Esquire, Marilyn Jasmine King, Paul Martin Burnard,
Esquire, Heather Reed, Simon Ernest Bodkin, Esquire, Jillian Clark, Jurats.

No. II Order, 2024

ENTITLED

THE FORFITURE OF ASSETS IN CIVIL PROCEEDINGS RULES, 2024

The Forfeiture of Assets in Civil Proceedings

Rules, 2024

THE ROYAL COURT, in exercise of the powers conferred upon it by section 132 of the Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023^a, and all other powers enabling it in that behalf, hereby orders:-

General

General powers of court.

1. (1) The Court has the powers set out in paragraph (2), in addition to any powers conferred on the Court by these Rules or any other Rule, practice direction or enactment, including the Law.

(2) The Court may -

- (a) extend or shorten the time for compliance with any rule, practice direction, court order or enactment even if the application for an extension is made after the time for compliance has expired,
- (b) adjourn or bring forward a hearing,

^a Order in Council No. VI of 2023.

- (c) stay the whole or part of any proceedings generally or until a specified date or event,
- (d) decide the order in which issues are to be heard,
- (e) dismiss or give judgment in any proceedings after a decision on a preliminary issue,
- (f) exclude an issue from determination if in the opinion of the Court the determination of that issue is unnecessary in order to achieve justice in the proceedings,
- (g) waive any requirement that evidence in support of any application be given by affidavit,
- (h) require the maker of an affidavit to attend court for cross examination or generally to give evidence in proceedings,
- (i) require any party, or any party's Advocate, to attend the court,
- (j) deal with any matters in the absence of a party,
- (k) hold a hearing and receive evidence by telephone or other electronic means or by using any other method of direct oral communication, provided that where evidence is received by telephone or other electronic means, all persons participating must be able to hear

one another and to identify each other so far as is practicable,

- (l) deal with a matter on written representations submitted by the parties instead of by oral representations,
- (m) direct that any evidence be given in oral or written form,
- (n) direct that notice of any proceedings or application be given to any person,
- (o) direct that any rule (other than these Rules) or practice direction applies in any particular case, with or without modifications, and
- (p) take any other step, including the giving, varying or revoking of directions, or make any other order for the purpose of managing the case.

(3) A power of the Court to make an order or direction for the purposes of paragraph (2) or any other provision of these Rules -

- (a) may be exercised at any stage of the proceedings, and
- (b) includes a power to vary or revoke the order or direction.

Evidence: general.

2. (1) Save as provided by paragraph (3), no evidence may be relied on in relation to the determination of any application under these Rules unless -

- (a) notice of the evidence has been given by serving it in accordance with the Law and these Rules, or
- (b) the Court gives permission.

(2) In the case of documentary evidence, notice of the evidence is given by serving a copy of the documentary evidence.

(3) This paragraph does not apply in relation to applications which are made without notice in accordance with the Law or these Rules.

Forfeiture in the Royal Court

Property freezing orders.

3. (1) An application for a property freezing order under section 8(1) of the Law -

- (a) must be made in writing, accompanied by a draft of the order sought and supported by an affidavit, and
- (b) shall be determined without a hearing, unless the Court orders otherwise.

(2) The affidavit must specify, in respect of each person known to be affected by the order sought -

- (a) the manner in which that person is affected, and

(b) so far as is known or is reasonably ascertainable, that person's name and address.

(3) In the case of an application made with notice, the applicant must serve -

(a) the application and a copy of the affidavit on any person by whom the property concerned is held (as defined in section 137(2)(a) of the Law), and

(b) the application on any other person specified under paragraph (2) in the affidavit.

(4) However, the Court shall not decline to hear an application made with notice solely on the ground that service has not been effected on -

(a) a person referred to in paragraph (3)(a) who cannot be identified, or

(b) a person referred to in paragraph (3)(b).

(5) Where the Court makes a property freezing order, the applicant must serve a copy of the property freezing order on -

(a) each person by whom the property concerned is held (as defined in section 137(2)(a) of the Law),

(b) any other person specified under paragraph (2) in the affidavit, and

(c) such other persons as the Court may direct.

Notice of objection: person served with application for property freezing order.

4. (1) This Rule applies where a person is served with an application for a property freezing order.

(2) A person ("P") who wishes to oppose the application, and who has not already received a copy of the affidavit under Rule 3(3)(a), may notify the applicant of P's intention to oppose the application, and the applicant must, within seven days of the date of service of the notification, serve a copy of the affidavit on P.

(3) A person who wishes to oppose the application must within 28 days of the date of service of the application on the person serve written notice of objection on -

(a) His Majesty's Procureur, and

(b) any other person who was served with the application.

(4) A notice of objection under paragraph (3) must -

(a) be made in writing,

(b) set out in full the grounds for objection, and

(c) be supported by an affidavit containing the evidence relied on.

(5) A person who serves a notice of objection under this Rule shall be a party to the application.

(6) His Majesty's Procureur or any other party to the application may, within 28 days of the date of service of notice of objection, file evidence in reply

to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Variation and setting aside of order.

5. (1) An application for the variation or setting aside of a property freezing order under section 9(1) of the Law must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a statement of the facts which the applicant claims will show that the Court should vary or set aside the property freezing order, including, if it is the case, the facts which the applicant claims will show that the property concerned is neither recoverable property nor, as the case may be, associated property, and
- (b) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application made under paragraph (1), and a copy of the affidavit, on -

- (a) His Majesty's Procureur and every other party to the proceedings, and
- (b) such other persons as the Court may direct.

(4) A person ("P") who wishes to oppose the application must serve a notice of objection on His Majesty's Procureur and the applicant no later than 28 days after the date of service of the application on P.

(5) A notice of objection under paragraph (4) must -

(a) be made in writing,

(b) set out in full the grounds for objection,

(c) contain a statement of the facts which the objector claims will show that the Court should not vary or set aside the property freezing order, including, if it is the case, the facts which the applicant claims will show that the property concerned is recoverable property, or as the case may be, associated property, and

(d) be supported by an affidavit containing the evidence relied on.

Forfeiture orders.

6. (1) An application for a forfeiture order under section 13(1) of the Law must be -

(a) made in writing and accompanied by a draft of the order sought, and

(b) supported by an affidavit.

(2) His Majesty's Procureur must -

- (a) serve the application, the draft of the order sought and a copy of the supporting affidavit, on -
 - (i) any person by whom the property concerned is held (as defined in section 137(2)(a) of the Law), and
 - (ii) where section 13(2)(b) of the Law applies, any person referred to therein, and
- (b) serve the application and the draft of the order on any other person referred to in section 13(2)(a) of the Law.

Notice of objection to forfeiture application.

7. (1) This Rule applies where a person is served with an application for a forfeiture order under section 13(1) of the Law.

(2) A person ("P") who wishes to oppose the application, and who has not already received a copy of the affidavit under Rule 6(2)(a), may notify the applicant of P's intention to oppose the application, and the applicant must, within seven days of the date of service of the notification, serve a copy of the affidavit on P.

(3) A person who wishes to oppose the forfeiture application on the ground that all or part of the property concerned is not recoverable property, must within 28 days of the date of service of the application on the person serve written notice of objection on -

- (a) His Majesty's Procureur, and

(b) any other person who was served with the forfeiture application.

(4) A notice of objection under paragraph (3) must -

(a) be made in writing,

(b) set out in full the grounds for objection,

(c) contain a description of the property, or part of the property, which the person opposing the application claims is not recoverable property, and

(d) be supported by an affidavit containing the evidence relied on.

(5) A person who serves a notice of objection under this Rule shall be a party to the forfeiture application.

(6) His Majesty's Procureur, or any other party to the forfeiture application, may, within 28 days of the date of service of notice of objection, file evidence in reply to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Extension of time for service of notice of objection or evidence.

8. (1) A person intending to give notice of objection under Rule 7(3) may, within 28 days of the date of service of the forfeiture application on that person, apply to the Court for an extension of time to serve notice of objection.

(2) Any party to the forfeiture application may, within 28 days after the date of service of notice of objection on that party, apply to the Court for an extension of time to file and serve further evidence under Rule 7(6).

(3) An application to the Court for an extension of time under paragraph (1) or (2) may, with the permission of the Court, be made after the expiration of the period of 28 days mentioned in those paragraphs; but the Court must not grant permission unless satisfied that -

- (a) it is in the interests of justice to do so, and
- (b) it was not reasonably practicable for the application for an extension of time to be made within the 28-day period mentioned in paragraph (1) or (2).

(4) Where the Court -

- (a) grants an application for an extension of time under paragraph (1) or (2), or
- (b) grants permission under paragraph (3),

it may do so on such terms and conditions as it thinks fit including (without limitation) terms and conditions as to the payment of security for costs.

Failure to file and serve notice of objection to forfeiture application.

9. (1) Where a person -

- (a) has failed to serve a notice of objection under Rule 7(3),
and

(b) has not been granted an extension of time by the Court,

the person, in the event there is to be a hearing of the forfeiture application, may attend the hearing but shall not be a party to the application unless the Court gives permission.

(2) The Court may give permission under paragraph (1) on such terms and conditions as it thinks fit including (without limitation) terms and conditions as to the payment of security for costs.

Applications by victims of theft etc.

10. (1) An application for a declaration under section 27 of the Law must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a statement of the facts that the applicant claims show that the condition in section 27(3) of the Law is met,
- (b) details of every person known to the applicant to be affected by the detention of the property, and
- (c) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) His Majesty's Procureur and every other party to the forfeiture proceedings, and

(b) such other persons as the Court may at any time direct.

(4) A person served with the application under paragraph (3) ("P") who wishes to oppose the application must serve notice of objection on His Majesty's Procureur and the applicant no later than 28 days after the date of service of the application on P.

(5) A notice of objection under paragraph (4) must -

(a) be made in writing,

(b) set out in full the grounds for objection, and

(c) be supported by an affidavit containing the evidence relied on.

Forfeiture of designated property

Further detention of property.

11. (1) This Rule applies to an application for an order under section 41 of the Law to -

(a) extend the period for which property, or any part of property, seized under section 39 of the Law may be detained beyond the initial period provided for in section 40, or

(b) further extend the period for which the property can be detained beyond the end of the period specified in the first order made to extend the period for detention.

- (2) An application to which this Rule applies -
 - (a) must be made in writing, accompanied by a draft of the order sought, and supported by an affidavit,
 - (b) may be made ex parte and without notice, unless the Court orders otherwise, and
 - (c) shall be determined without a hearing, unless the Court directs otherwise.

- (3) The affidavit must -
 - (a) contain -
 - (i) a statement of which of condition 1, 2 or 3 from section 41 of the Law is met, and
 - (ii) the evidence that the applicant relies on in support of the application, and
 - (b) specify, in respect of each person known to be affected by the order sought -
 - (i) the manner in which that person is affected, and
 - (ii) so far as is known or is reasonably ascertainable, that person's name and address.

- (4) In the case of an application made with notice, the applicant must serve -

- (a) the application and a copy of the affidavit on any person by whom the property concerned is held (as defined in section 137(2)(a) of the Law), and
- (b) the application on any other person specified under paragraph (3)(b) in the affidavit.

(5) However, the Court must not decline to hear an application made with notice solely on the ground that service has not been effected on -

- (a) a person referred to in paragraph (4)(a) who cannot be identified, or
- (b) a person referred to in paragraph (4)(b).

(6) Where the Court makes an order under section 41 of the Law, the applicant must serve a copy of the order on any person who is -

- (a) a person by whom the property concerned is held (as defined in section 137(2)(a) of the Law),
- (b) any other person specified under paragraph (3)(b) in the affidavit, and
- (c) such other persons as the Court may direct.

Notice of objection: person served with application for further detention.

12. (1) This Rule applies where a person is served with an application for an order under section 41 of the Law.

(2) A person ("P") who wishes to oppose the application, and who has not already received a copy of the affidavit under Rule 11(4)(a), may notify the applicant of P's intention to oppose the application, and the applicant must, within seven days of the date of service of the notification, serve a copy of the affidavit on P.

(3) A person who wishes to oppose the application must, within 28 days of the date of service of the application on the person, serve written notice of objection on -

(a) His Majesty's Procureur, and

(b) any person who was served with the application.

(4) A notice of objection under paragraph (3) must -

(a) be made in writing,

(b) set out in full the grounds for objection, and

(c) be supported by an affidavit containing the evidence relied on.

(5) A person who serves a notice of objection under this Rule shall be a party to the application.

(6) His Majesty's Procureur or any other party to the application may, within 28 days of the date of service of notice of objection, file evidence in reply to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Release of detained property.

13. (1) An application under section 44 of the Law for an order for the release of the whole or part of any property which has been detained under section 40 or 41 must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a statement of the facts that the applicant claims show that the release condition in section 44(6) of the Law is met, and
- (b) such other evidence as the applicant relies on in support of the application.

(3) The application and a copy of the supporting affidavit must be served by the applicant on -

- (a) His Majesty's Procureur, and
- (b) in the case of property which has been detained under section 41 of the Law, the person who made the application (if not His Majesty's Procureur).

(4) A person who wishes to oppose the application must, within 28 days of the date of service of the application on the person, serve notice of objection on His Majesty's Procureur and the applicant.

(5) A notice of objection under paragraph (4) must -

- (a) be made in writing,

- (b) set out in full the grounds for objection,
- (c) contain a description of the property, or part of the property, in respect of which the objector contends the release condition is not met, and
- (d) be supported by an affidavit containing the evidence relied on.

(6) The applicant may, within 28 days of the date of service of notice of objection, file evidence in reply to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Application to set aside forfeiture.

14. (1) An application under section 48(1) of the Law for an order setting aside the forfeiture of property under section 46(3) of the Law must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a description of the property, or part of the property, which the person aggrieved by the forfeiture claims is not designated property or is not recoverable property, and
- (b) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) the relevant officer who gave the forfeiture notice by which the property in question was forfeited under section 46(3),
- (b) His Majesty's Procureur, and
- (c) any person who was served with the forfeiture notice.

(4) His Majesty's Procureur or any other person served with the application under paragraph (3) must, if wishing to oppose the application, serve notice of objection on the applicant (and, in the case of an application by a person other than His Majesty's Procureur, on His Majesty's Procureur) no later than 28 days after the date of service of the application, or within such longer period as the parties may agree or the Court permits.

(5) A notice of objection under paragraph (4) must -

- (a) be made in writing,
- (b) set out in full the grounds for objection, and
- (c) be supported by an affidavit containing the evidence relied on.

(6) Where the Court sets aside the forfeiture of any property, it must, when ordering the release of the property under section 48(5) of the Law, specify the date by which the property must be released.

Summary forfeiture applications.

15. (1) An application for a summary forfeiture order under section 49(2) of the Law must be -

(a) made in writing and supported by an affidavit, and

(b) accompanied by a draft of the order sought.

(2) His Majesty's Procureur must, so far as is practicable, serve -

(a) a copy of the application, the draft order and the affidavit on any person by whom the property concerned is held (as defined in section 137(2)(a) of the Law), and

(b) a copy of the application and the draft order on any other persons who were notified of the order by which the property was further detained under section 41(6)(c) of the Law.

Notice of objection to summary forfeiture application.

16. (1) This Rule applies where a person is served with an application for a summary forfeiture order.

(2) A person ("P") who wishes to oppose the application, and who has not already received a copy of the affidavit under Rule 15(2)(a), may notify the applicant of P's intention to oppose the application, and the applicant must, within seven days of the date of service of the notification, serve a copy of the affidavit on P.

(3) A person who wishes to oppose the summary forfeiture application on the ground that the release condition is met in respect of the property, or part of the property, must within 28 days of the date of service of the application on the person serve written notice of objection on -

- (a) His Majesty's Procureur, and
- (b) any other person who was served with the summary forfeiture application.

(4) A notice of objection under paragraph (3) must -

- (a) be made in writing,
- (b) set out in full the grounds for objection,
- (c) contain a description of the property, or part of the property, in respect of which the person opposing the application says the release condition is met, and
- (d) be supported by an affidavit containing the evidence relied on.

(5) A person who serves a notice of objection under paragraph (3) shall be a party to the summary forfeiture application.

(6) His Majesty's Procureur or any other party to the forfeiture application may, within 28 days of the date of service of notice of objection, file evidence in reply to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Extension of time for service of notice of objection or evidence.

17. (1) A person intending to give notice of objection under Rule 16 may, within 28 days of the date of service of the summary forfeiture application on the person, apply to the Court for an extension of time to serve notice of objection.

(2) Any party to the summary forfeiture application may, within 28 days after the date of service of notice of objection on that party, apply to the Court for an extension of time to file and serve further evidence under Rule 16(4).

(3) An application to the Court for an extension of time under paragraph (1) or (2) may, with the permission of the Court, be made after the expiration of the period of 28 days mentioned in those paragraphs; but the Court must not grant permission unless satisfied that -

- (a) it is in the interests of justice to do so, and
- (b) it was not reasonably practicable for the application for an extension of time to be made within the 28-day period.

(4) Where the Court -

- (a) grants an application for an extension of time under paragraph (1) or (2), or
- (b) grants permission under paragraph (3),

it may do so on such terms and conditions as it thinks fit, including (without limitation) terms and conditions as to the payment of security for costs.

Failure to file and serve notice of objection to forfeiture application.

18. (1) Where a person -
- (a) has failed to serve a notice of objection under Rule 16, and
 - (b) has not been granted an extension of time by the Court,

the person may, in the event there is to be a hearing of the forfeiture application, attend the hearing, but shall not be a party to the application unless the Court gives permission.

(2) The Court may give permission under paragraph (1) on such terms and conditions as it thinks fit including (without limitation) terms and conditions as to the payment of security for costs.

Application by victims and other owners.

19. (1) An application under section 57(1) of the Law by a person who claims ownership of property, or any part of the property, detained under Part III of the Law, must be made in writing and supported by an affidavit.

- (2) The affidavit must contain -
- (a) a statement of the facts which the applicant claims show that condition 1, or as the case may be, condition 2, in section 57 of the Law is met,
 - (b) details of every person known to the applicant to be affected by the detention of the property, and

- (c) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) His Majesty's Procureur,
- (b) every other party to the relevant proceedings under section 41 or (as the case may be) 49, and
- (c) such other persons as the Court may direct.

(4) His Majesty's Procureur or any other person served with the application under paragraph (3) must, if wishing to oppose the application, serve notice of objection on the applicant (and, in the case of an application by a person other than His Majesty's Procureur, on His Majesty's Procureur) no later than 28 days after the date of service of the application.

(5) A notice of objection under paragraph (4) must -

- (a) be made in writing,
- (b) set out in full the grounds for objection, and
- (c) be supported by an affidavit containing the evidence relied on.

Forfeiture of money held in Bailiwick bank accounts

Application for account freezing order.

20. (1) An application for an account freezing order under section 59(2) of the Law must be -

- (a) made in writing, accompanied by a draft of the order sought and supported by an affidavit, and
- (b) determined without a hearing, unless the Court directs otherwise.

(2) The affidavit must specify, in respect of each person known to be affected by the order sought -

- (a) the manner in which that person is affected, and
- (b) so far as is known or is reasonably ascertainable, that person's name and address.

(3) In the case of an application made with notice, the applicant must serve -

- (a) the application and a copy of the affidavit, on the person by or for whom the account is operated, and
- (b) the application on any other person specified under paragraph (2) in the affidavit.

(4) However, the Court must not decline to hear an application made with notice solely on the ground that service has not been effected on -

(a) a person referred to in paragraph (3)(a) who cannot be identified, or

(b) a person referred to in paragraph (3)(b).

(5) Where the Court makes an account freezing order, the applicant must serve a copy of the account freezing order on any person, who is not a party to the proceedings, who is -

(a) a person by or for whom the account is operated,

(b) any other person specified under paragraph (3) in the affidavit, and

(c) such other persons as the Court may direct.

(6) For the purposes of this Rule, a person is not affected by the order solely on the basis that the person has received a payment from the account or might, absent the account freezing order, reasonably be expected to have received a payment from the account.

Notice of objection: person served with application for account freezing order.

21. (1) This Rule applies where a person is served with an application for an account freezing order.

(2) A person ("P") who wishes to oppose the application, and who has not already received a copy of the affidavit under Rule 20(3)(a), may notify the applicant of P's intention to oppose the application, and the applicant must, within seven days of the date of service of the notification, serve a copy of the affidavit on P.

(3) A person who wishes to oppose the application must within 28 days of the date of service of the application on the person serve written notice of objection on -

(a) His Majesty's Procureur, and

(b) any other person who was served with the application.

(4) A notice of objection under paragraph (3) must -

(a) be made in writing,

(b) set out in full the grounds for objection, and

(c) be supported by an affidavit containing the evidence relied on.

(5) A person who serves a notice of objection under this Rule shall be a party to the application.

(6) His Majesty's Procureur or any other party to the application may, within 28 days of the date of service of notice of objection, file evidence in reply to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Variation and setting aside of account freezing order.

22. (1) An application under section 61(1) of the Law for the variation or setting aside of an account freezing order must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a statement of the facts the applicant claims show that the account freezing order should be varied or set aside, and
- (b) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) every other party to the proceedings,
- (b) if the applicant is not His Majesty's Procureur, on His Majesty's Procureur, and
- (c) such other persons as the Court may at any time direct.

(4) A person ("P") served with the application under paragraph (3) who wishes to oppose the application must serve notice of objection on His Majesty's Procureur and the applicant no later than 14 days after the date of service of the application on P.

(5) A notice of objection under paragraph (4) must -

- (a) be made in writing,
- (b) set out in full the grounds for objection, and
- (c) be supported by an affidavit containing the evidence relied on.

Application to set aside account forfeiture.

23. (1) An application under section 65(1) of the Law for an order setting aside the forfeiture of money under section 63(4) of the Law must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a description of the money, including its amount, which the applicant claims is not recoverable property, and
- (b) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) His Majesty's Procureur, and
- (b) any other person who was served with the account forfeiture notice.

(4) His Majesty's Procureur or any other person served with the application under paragraph (3) must, if wishing to oppose the application, serve notice of objection on the applicant (and, in the case of an application by a person other than His Majesty's Procureur, on His Majesty's Procureur) no later than 28 days after the date of service of the application, or within such longer period as the parties may agree or the Court permits.

(5) A notice of objection under paragraph (4) must -

- (a) be made in writing,
- (b) set out in full the grounds for objection, and
- (c) be supported by an affidavit containing the evidence relied on.

(6) Where the Court sets aside the forfeiture of money, it must, when ordering the release of the money under section 65(5) of the Law, specify the date by which the money must be released.

Application for account forfeiture order.

24. (1) An application for an account forfeiture order under section 67(2) of the Law must be -

- (a) made in writing and accompanied by a draft of the order sought, and
- (b) supported by an affidavit.

(2) His Majesty's Procureur must, so far as is practicable, serve -

- (a) a copy of the application, the draft order and the affidavit on the person by or for whom the account is operated, and
- (b) a copy of the application and the draft order on any other persons who were notified of the account freezing order by which the account was frozen under section 60(4) of the Law.

Notice of objection to account forfeiture application.

25. (1) This Rule applies where a person is served with an application for an account forfeiture order.

(2) A person ("P") who wishes to oppose the application, and who has not already received a copy of the affidavit under Rule 24(2)(a), may notify the applicant of P's intention to oppose the application, and the applicant must, within seven days of the date of service of the notification, serve a copy of the affidavit on P.

(3) A person who wishes to oppose the application for the account forfeiture order on the ground that all or part of the money concerned is not recoverable property, must within 28 days of the date of service of the application on the person serve written notice of objection on -

(a) His Majesty's Procureur, and

(b) any other person who was served with the account forfeiture application under Rule 24(2).

(4) A notice of objection under paragraph (3) must -

(a) be made in writing,

(b) contain a description of the money, including its amount, which the person opposing the application claims is not recoverable property, and

(c) be supported by an affidavit containing the evidence relied on.

(5) A person who serves notice of application under paragraph (4) shall be a party to the account forfeiture application.

(6) His Majesty's Procureur or any other party to the forfeiture application may, within 28 days of the date of service of notice of objection, file evidence in reply to that notice of objection, and must serve a copy of any evidence filed on all parties to the application.

Extension of time for service of notice of objection or evidence.

26. (1) A person intending to give notice of objection under Rule 25 may, within 28 days of the date of service of the forfeiture application on the person, apply to the Court for an extension of time to serve notice of objection.

(2) Any party to the forfeiture application may, within 28 days after the date of service of notice of objection on that party, apply to the Court for an extension of time to file and serve further evidence under Rule 25(6).

(3) An application to the Court for an extension of time under paragraph (1) or (2) may, with the permission of the Court, be made after the expiration of the period of 28 days mentioned in those paragraphs; but the court must not grant permission unless satisfied that -

- (a) it is in the interests of justice to do so, and
- (b) it was not reasonably practicable for the application for an extension of time to be made within the 28-day period.

(4) Where the Court -

- (a) grants an application for an extension of time under paragraph (1) or (2), or
- (b) grants permission under paragraph (3),

it may do so on such terms and conditions as it thinks fit including (without limitation) terms and conditions as to the payment of security for costs.

Failure to file and serve notice of objection to account forfeiture application.

27. (1) Where a person -
- (a) has failed to serve a notice of objection under Rule 25, and
 - (b) has not received the permission of the Court for an extension of time,

the person, in the event there is to be a hearing of the account forfeiture application, may attend the hearing of the account forfeiture application but shall not be a party to the application unless the Court gives permission.

(2) The Court may give permission under paragraph (1) on such terms and conditions as it thinks fit including (without limitation) terms and conditions as to the payment of security for costs.

No-consent forfeiture notice.

28. (1) This Rule applies where His Majesty's Procureur proposes to serve a no-consent forfeiture notice under section 70 of the Law upon the holder of an account maintained with a bank in the Bailiwick.

(2) Where this Rule applies, before serving the notice His Majesty's Procureur may apply to the Court for directions as to the date on which, and a place and time at which, the account holder would be required to attend a hearing of the Court to show cause why the money (or part of the money) specified in the notice is not recoverable property and should not be forfeited.

(3) An application must be in writing and supported by an affidavit.

No-consent forfeiture order.

29. (1) An application for a no-consent forfeiture order under section 71(1) or (3) of the Law must be -

- (a) made in writing and accompanied by a draft of the order sought, and
- (b) supported by an affidavit.

(2) His Majesty's Procureur must serve the no-consent forfeiture application, the draft order and a copy of the supporting affidavit on every person served with the no-consent forfeiture notice under section 70(3)(d) of the Law no later than 28 days before the date stated under section 70(3)(c) of the Law in the no-consent forfeiture notice.

Application by victims and other owners.

30. (1) An application for the release of relevant money or any part of relevant money under section 73 of the Law (victims and other owners) must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

- (a) a statement of the facts which the applicant says show that condition 1, or, as the case may be, condition 2 in section 73 of the Law is met,
- (b) details of every person known to the applicant to be affected by the restriction which has been placed on the relevant money, and
- (c) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit -

- (a) in the case of relevant money held in a frozen account, on -
 - (i) His Majesty's Procureur, and
 - (ii) such other persons as the Court may at any time direct,
- (b) in the case of relevant money in respect of which a no-consent forfeiture notice has been given, on -
 - (i) His Majesty's Procureur,
 - (ii) the account holder,
 - (iii) the bank with which the bank account in question is maintained, and

(iv) such other persons as the Court may at any time direct,

and if an address for service on the account holder is not known, service on the bank is to be taken as sufficient for the purposes of this Rule.

(4) His Majesty's Procureur or any other person served with the application under paragraph (3) must, if wishing to oppose the application, serve notice of objection on the applicant no later than 14 days after the date of service of the application on His Majesty's Procureur or (as the case may be) that other person.

(5) A notice of objection under paragraph (4) must -

(a) be made in writing,

(b) set out in full the grounds for objection, and

(c) be supported by an affidavit containing the evidence relied on.

Investigations

Applications for relevant orders.

31. (1) An application to the Bailiff for a relevant order, including any application under section 107(2) of the Law, must be -

(a) made in writing and supported by an affidavit,

(b) accompanied by a draft of the order sought, and

(c) determined without a hearing, unless the Bailiff orders otherwise.

(2) The affidavit must set out all the matters relied on in support of the application, including -

(a) any matters required to be stated by the Law, and

(b) any matters which the Bailiff must be satisfied of in order to grant the relevant order under the Law.

Application for discharge or variation of relevant orders.

32. (1) An application to the Court for an order to discharge or vary a relevant order under section 101(1) of the Law must be made in writing and supported by an affidavit.

(2) The affidavit must contain -

(a) all the matters relied on in support of the application including, if it is the case, a summary of the reasons why the applicant claims the requirements for the making of the relevant order are not met, and

(b) such other evidence as the applicant relies on in support of the application.

(3) The applicant must serve the application and a copy of the supporting affidavit on -

(a) His Majesty's Procureur and every other party to the proceedings, and

(b) such other persons as the Court may at any time direct.

(4) A person ("P") served with an application under paragraph (3) who wishes to oppose the application must serve notice of objection on the applicant no later than 14 days after the date of service of the application on P.

(5) A notice of objection under paragraph (4) must -

(a) be made in writing,

(b) set out in full grounds for objection, and

(c) be supported by an affidavit containing the evidence relied on.

Application for a search warrant or a preservation order.

33. (1) An application to the Bailiff for a search and seizure warrant under section 85(1) of the Law or for a preservation order under section 108(1) of the Law must be -

(a) made in writing and supported by an affidavit,

(b) accompanied by a draft of the order sought, and

(c) determined without a hearing, unless the Bailiff orders otherwise.

(2) The affidavit must set out all the matters relied on in support of the application, including -

- (a) any matters required to be stated by the Law, and
- (b) any matters which the Bailiff must be satisfied of in order to grant the relevant warrant or order under the Law.

Other applications

Application to register overseas forfeiture order.

34. (1) An application by His Majesty's Procureur to register an overseas forfeiture order under section 111(1) of the Law must be made in writing, accompanied by a draft of the order sought, and supported by an affidavit which sets out all the matters relied on in support of the application including the evidence relied on.

(2) Where a sum specified in the overseas forfeiture order is expressed in a currency other than sterling and there are not funds held in the Bailiwick in the currency in which the sum specified is expressed sufficient to satisfy the overseas forfeiture order, the application must state the sterling equivalent of the sum specified.

(3) For the purposes of paragraph (2), the sterling equivalent is to be calculated in accordance with the exchange rate prevailing at the end of the day on which the overseas forfeiture order was made.

(4) Subject to paragraph (9), His Majesty's Procureur must serve the application and a copy of the supporting affidavit, not less than 7 days before the hearing of the application, on -

(a) every person who His Majesty's Procureur knows would be affected by the order, and

(b) such other persons as the Court may at any time direct.

(5) A person served with an application under paragraph (4) who wishes to oppose the application must serve notice of objection on the applicant no later than 28 days after the date of service of the application on that person.

(6) A notice of objection under paragraph (5) must be -

(a) made in writing, and

(b) supported by an affidavit which sets out in full the grounds for objection and contains the evidence relied on.

(7) If an application is not served on a person ("P") under paragraph (4), the application may nevertheless proceed, but in that case paragraphs (5) and (6) do not apply in relation to P, who may, if P wishes to oppose registration, make representations at the hearing.

(8) Subject to paragraph (9), His Majesty's Procureur shall serve a copy of -

(a) any order made, and

(b) the affidavit given in support of the application,

on every person known to His Majesty's Procureur to be affected by the registration of the order, save that subparagraph (b) shall not apply in relation to any person who has already been served with the affidavit under paragraph (4).

(9) Unless the Court orders otherwise, His Majesty's Procureur shall not be required to serve a copy of the affidavit given in support of the application on any bank known to be affected by the terms of the order.

Application for leave for forfeiture or freezing proceedings in désastre or winding up.

35. (1) An application to the relevant court for leave under section 116(2) or (3) of the Law must be -

- (a) made in writing, accompanied by a draft of the order sought, and supported by an affidavit, and
- (b) determined without a hearing, unless the relevant court orders otherwise.

Applications in the case of désastre or where company is wound up.

36. (1) An application to the relevant court under section 117 or 118 of the Law to include any property in the estate of a person for the purposes of désastre proceedings, or to authorise the liquidator or provisional liquidator to exercise functions, as the case may be, must be made in writing and supported by an affidavit which sets out all the matters and evidence relied on in support of the application.

(2) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) any person by whom the property concerned is held (as defined in section 137(2)(a) of the Law), unless that person is the applicant),
- (b) any other persons on whom the property freezing order, the account freezing order, or any order under Part III of the Law detaining the property, were served,
- (c) His Majesty's Procureur and any person (other than His Majesty's Procureur) on whose application the order mentioned in subparagraph (b) was made, and
- (d) such other persons as the Court may direct.

(3) A person ("P") served with an application under paragraph (2) who wishes to oppose the application must serve notice of objection on the applicant no later than 14 days after the date of service of the application on P.

- (4) A notice of objection under paragraph (3) must -
 - (a) be made in writing,
 - (b) set out in full the grounds for objection, and
 - (c) be supported by an affidavit containing the evidence relied on.

Application to exercise or realise rights or interests in respect of property.

37. (1) An application to the relevant court under section 119 of the Law to authorise a person to exercise or realise a right or interest specified in section

119(3) of the Law in respect of any property must be made in writing and supported by an affidavit which sets out all the matters and evidence relied on in support of the application.

(2) The applicant must serve the application and a copy of the supporting affidavit on -

- (a) any person by whom the property concerned is held (as defined in section 137(2)(a) of the Law), unless that person is the applicant,
- (b) any other persons on whom the property freezing order, the account freezing order, or any order under Part III of the Law detaining the property, were served,
- (c) His Majesty's Procureur and any person (other than His Majesty's Procureur) on whose application the order mentioned in subparagraph (b) was made,
- (d) in the case of property that is also subject to proceedings for a relevant forfeiture order, every person that is a party to those proceedings and not mentioned in subparagraph (a), (b) or (c), and
- (e) such other persons as the court may direct.

(3) A person ("P") served with an application under paragraph (2) who wishes to oppose the application must serve notice of objection on His Majesty's Procureur and the applicant no later than 14 days after the date of service of the application on P.

- (4) A notice of objection under paragraph (3) must -
- (a) be made in writing,
 - (b) set out in full the grounds for objection, and
 - (c) be supported by an affidavit containing the evidence relied on.

Miscellaneous provisions

Confidentiality of Court documents.

38. (1) Where an application for an order referred to in Rule 31(1) (application for relevant orders), 32(1) (application for discharge or variation of relevant orders) or 33(1) (application for a search warrant or a preservation order) is made, the court file shall be marked "not for disclosure" and, unless the Bailiff orders otherwise on such terms and conditions that the Bailiff thinks fit, the court records relating to the application (including the application notice, documents in support, and any order or warrant that is made) are not to be made available by the Court for any person to inspect or copy, either before or after the hearing of the application.

(2) Where any other application is made under the Law, any affidavit filed in support of or otherwise in connection with the application may be marked by the court hearing the application "not for disclosure" in which case, unless the Court orders otherwise on such terms and conditions that the Court thinks fit, the affidavit is not to be made available by the Court for any person to inspect or copy, either before or after the hearing of the application.

(3) An application for permission to inspect or copy any record referred to in paragraph (1) or affidavit referred to in paragraph (2) must be made in

writing and may not be made until notice of the application has been given to His Majesty's Procureur.

(4) Paragraphs (1) and (2) are without prejudice to any other rule of law, practice or procedure prohibiting or restricting the publication or disclosure of documents by the Court.

Relationship with section 136 of the Law.

39. For the avoidance of doubt, section 136 of the Law applies in relation to the service of documents under these Rules.

Interpretation.

40. In these Rules, unless the context requires otherwise -

"**the appropriate Court**" has the meaning given by section 142 of the Law,

"**the Court**" means -

- (a) in the case of applications to or proceedings involving the Royal Court, the Royal Court, and
- (b) in the case of applications to or proceedings involving the appropriate Court, the appropriate Court,

"**the Law**" means the Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey) Law, 2023, and

"**Royal Court**" has the meaning given by section 144(1) of the Law.

Revocations.

41. The Forfeiture of Money etc in Civil Proceedings (Bailiwick of Guernsey) (Amendment) Rules, 2023^b are revoked.

Extent.

42. These Rules shall have effect in the Bailiwick of Guernsey.

Citation.

43. These Rules may be cited as the Forfeiture of Assets in Civil Proceedings Rules, 2024.

Commencement.

44. These Rules shall come into force on 26th April 2024.

^b Order of the Royal Court No. II of 2023.