

Forfeiture of Civil Assets – expanding Jersey's non-conviction based confiscation regime

Consultation Paper

20 September 2017

Introductory Statement

Senator Ian Gorst

Chief Minister:



Jersey is regarded as one of the most stable and successful International Finance Centres in the world and, working together responsibly, the Government, the regulator and industry must continue to uphold the reputation of Jersey for the good of the Island.

In the Government of Jersey's Financial Services Policy Framework¹, published in April 2014, the Government clearly set out that continuing to be 'Responsible' was one of four core principles upon which a financial services policy for Jersey was based.

I am pleased that under this Government, we have managed to pursue a number of policies in this regard including being an early adopter of the Common Reporting Standard (the "CRS"), introducing an enhanced policy on beneficial ownership, entering into enhanced information sharing with the UK through an 'Exchange of Notes', amending our legislative anti-money laundering and countering the financing of terrorism regime to continue to meet international standards and strengthening our financial services infrastructure.

As a leading International Finance Centre, Jersey commits to comply with international standards and global initiatives.

Jersey is committed to the worldwide fight against financial crime and plays an active role in the work of the Financial Action Task Force (the "FATF") through MONEYVAL, an FATF-style regional body.

¹<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20Financial%20Services%20Policy%20Framework%2020140402%20LO.pdf>

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Following MONEYVAL's onsite inspection of Jersey in 2015, a Report was published in May 2016², which contained a number of Recommendations. The evaluation team recommended that Jersey could consider the introduction of a non-conviction based confiscation regime to apply in parallel with the conviction-based system. The Government of Jersey, advised by the Financial Crime Strategy Group, has decided to act on this recommendation, particularly as the new FATF Recommendations and Methodology (against which Jersey will be assessed in approximately 2021) place greater emphasis on effectiveness i.e. to what extent jurisdictions are, *inter alia*, successfully depriving criminals of illicit property. Since the MONEYVAL visit, my department in conjunction with the Attorney General's Chambers has been working on draft legislation to introduce non-conviction based confiscation in Jersey. The draft legislation now produced proposes to replace and extend the current Proceeds of Crime (Cash Seizure) (Jersey) Law 2008 to create a civil forfeiture procedure that would apply to both cash and property held in bank accounts. In that regard, we are now looking to consult on draft legislation in this consultation paper and receive comments from interested parties.

Non-conviction based confiscation regimes are common in a number of jurisdictions around the world. They provide a judicial mechanism for authorities to make an application to confiscate assets, where potentially due to an inability to obtain evidence to reach the criminal standard for prosecution (beyond reasonable doubt), it would not be possible to confiscate such assets. A common use of these regimes may be to confiscate funds that have been frozen for a significant period of time by a bank after a suspicious activity report ("SAR") has been filed. These situations arise where an account holder may have simply abandoned the funds and has made no attempt to prove their legitimacy further to requests from the bank. It is important to note the judicial mechanisms proposed incorporate important safeguards to address the rights of the individual in respect of property.

The Government sees consultation and introduction of this regime as an enhancement of an already effective functioning system in Jersey – and looks to this as a reinforcement of the existing leading position on prevention of financial crime Jersey holds, that has been independently endorsed by international assessors and acknowledged experts. We look forward to receiving your comments.



² <https://rm.coe.int/report-on-fourth-assessment-visit-anti-money-laundering-and-combating-/1680716452>

Consultation on the Draft Forfeiture of Assets Civil Proceedings (Jersey) Law 201-
(the "Draft Law")

A: Introduction and high level policy

The draft Law provides for an *in rem* civil forfeiture procedure for bank accounts. This is achieved in the Draft Law by repealing and replacing the existing Proceeds of Crime (Cash Seizure) (Jersey) Law 2008 ("the **Cash Seizure Law**") with a single enactment providing for civil forfeiture of both cash and bank accounts. The single piece of statute has been entitled the Forfeiture of Assets (Civil Proceedings) (Jersey) Law to reflect the changes to the existing Cash Seizure Law but also to dispel any assumption that the procedures provided for are criminal in nature. As is made clear by the Chief Minister's Introduction, the regime is designed to apply in parallel and complement the conviction based system that is already well established in Jersey.

B: Procedural Tracks under the draft Law

The Draft Law introduces three procedural tracks for the operation of the Regime. These are:

- a) preservation of the existing procedure for tainted cash under the Cash Seizure Law;
- b) a procedure for the summary forfeiture of property in bank accounts which has been subject to a "No Consent" by the Joint Financial Crime Unit ("JFCU") for a period of 12 months;
- c) a procedure for the forfeiture of property in bank accounts which is otherwise suspected to be property that is the proceeds of unlawful conduct or is used/intended to be used in unlawful conduct.

The existing procedure under the Cash Seizure Law at point a) needs little further introduction, however outlining the intended use of the procedures under (b) and (c) above may assist respondents with an understanding on how the Government envisage the new procedures operating.

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(b) Summary forfeiture of property in bank accounts subject to a "No Consent" by the Joint Financial Crime Unit (the "Summary Procedure")

It is envisaged that the procedure described in paragraph (b) is likely to be used to deal with property in Jersey that has been under a "No Consent" for a significant period of time (12 months or more). It is likely that often the procedure will be engaged where the account holder has simply 'walked away' from the property, in the knowledge that they cannot prove legitimate claim to the property.

It is envisaged that this procedure may initially be engaged a number of times at the commencement of the regime, this will be to deal with a historic caseload of funds that have been under "No Consent" for some time.

The procedure will continue to have use over time, albeit, it is envisaged that its frequency of use will diminish.

(c) Procedure for the restraint and forfeiture of property in bank accounts which is otherwise suspected to be property that is the proceeds of unlawful conduct or is used/intended to be used in unlawful conduct (the "General Procedure")

It is envisaged that the procedure will be used in circumstances where information is received which may constitute the need for an immediate formal freeze of assets held in the jurisdiction and subsequent forfeiture. It is envisaged that this will enhance Jersey's ability to assist foreign jurisdictions where, for example, information is received about assets from a foreign financial intelligence unit and no SAR has been made in respect of the relevant account.

This procedure is distinguished from circumstances where there has been a foreign civil asset recovery order (in which case the Civil Asset Recovery (International Co-Operation) (Jersey) Law 2007 ("**Civil Asset Recovery Law**") will apply).

C: Outline of Parts of the Draft Law

The draft Law is produced in Five Parts:

Part 1 contains Interpretive provisions.

Part 2 replaces and updates the provisions of the Cash Seizure (Jersey) Law 2008.

Part 3 deals with forfeiture and confiscation of tainted property and introduces the two procedural tracks outlined in (b) and (c) above.

Article 10 introduces the summary procedure outlined in (b) where the Attorney General may (where there are reasonable grounds to believe that property held at a bank in Jersey is tainted property and a suspicious activity report has been made in relation to the bank account in question or any property in the account) serve a notice on the holder of the account and on the bank requiring the holder to attend court to show cause why the property specified in the notice should not be forfeited. If the respondent to the notice fails to attend the hearing, the Attorney General may apply forthwith for an order for forfeiture of the property, which may be made without further notice under *Article 11(1)*. Unless the respondent satisfies the court that the property is not tainted property (either at that hearing or at a later hearing), the Attorney General may apply to the court for an order for forfeiture of the property or any part of it.

Article 12 introduces the procedural track detailed at B (c) above. In relation to property which is suspected of being tainted but no report of suspicious activity has yet been received, the Attorney General may apply to the Bailiff in Chambers under *Article 12* for a “property restraint order” prohibiting withdrawal, transfer or payment out of property specified in the order. Such an application may be made either to the court or *ex parte* to the Bailiff in chambers. A property restraint order may be made where the court or the Bailiff is satisfied that there are reasonable grounds to believe that the property is tainted property and the making of an order is justified in the circumstances for a reasonable period, pending investigation or the bringing of proceedings. *Article 12(4)* gives wide power for related directions as to the management of the property whilst subject to the order, and for notice of the order to be given to persons affected by it.

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Article 14 specifies that a property restraint order is discharged upon the making of a forfeiture order in respect of the same property, or by order where the Bailiff (or if the Bailiff refers the matter, the Court) is satisfied that the reasons for which the order was made no longer apply.

Under *Article 15* the Attorney General may apply to the court for a forfeiture order in relation to the whole or any part of property which is subject to a cash detention order or to a property restraint order. Cash or other movable property which is forfeited pursuant to a forfeiture order under either Article 11 or Article 15 is to be paid into the Criminal Offences Confiscations Fund established under Article 24 of the Proceeds of Crime (Jersey) Law 1999. Given that the Criminal Offences Confiscation Fund was established for holding the proceeds of 'Criminal' conduct, and that the introduction of this legislation proposes 'Civil' proceedings, it is noted that it may not be appropriate for property forfeited under this law to be paid into the Criminal Offences Confiscation Fund, therefore, active consideration is being given to either renaming the fund or the establishment of a separate fund.

Part 4 confers additional investigative powers on the Attorney General and authorized officers in connection with civil forfeiture investigations

Part 5 of the Law makes miscellaneous general provision. *Article 26* provides that proceedings (except offences) under the Law are civil proceedings to be determined on the balance of probabilities. There are also provisions contained in this part to allow victims of crime who have been deprived of property to apply to Court for release of the property to them. Part 5 also limits the liability of the Viscount and the Attorney General respectively, in carrying out their functions under the Law, unless any act is done in bad faith or (in the case of the Attorney General only) so as to prevent an award of damages under Article 7 of the Human Rights (Jersey) Law 2000. Under *Article 30*, provision is made for compensation to be payable where a person has suffered loss as a result of an act done in bad faith and the court considers it appropriate for an award of compensation to be made. Finally, this Part makes a general offence of obstructing the Attorney

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General or an authorized officer in the lawful exercise of powers under the draft Law and also provides for Tipping Off offences regarding the procedures in the draft Law.

D: Specific Questions for Consultation and Responses

The Chief Minister's Department is seeking responses to the consultation from anyone affected by the potential introduction of the draft Law. This includes members of the public, professional advisers (lawyers, accountants), Trust and Company Services Providers and Banks.

The Consultation Period is open from **20 September 2017 until 1 November 2017** allowing respondents 6 weeks to provide feedback on the draft legislation. The Government intend to lodge legislation *au Greffe* before the end of 2017, for debate by the States Assembly at the earliest opportunity.

The Chief Minister's Department would welcome responses to the Consultation by either Online Survey – a link to a Survey Monkey can be found below – or by e-mail.

Specific Questions on the draft legislation have been both embedded in the relevant parts of the draft legislation, for ease of the reader, and listed below for completeness.

Respondents who have any further questions regarding the consultation should contact:

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Chief Minister's Department

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Please respond by survey monkey – available at:

<https://www.surveymonkey.com/r/NYHXDZP>

Or by e-mail to G.Pearmain@gov.je

THE CONSULTATION WILL CLOSE ON 1 NOVEMBER 2017

Detailed Consultation Questions

1. Do respondents consider that the application of the regime should be restricted to movable property, as currently drafted, or should it be extended to cover immovable property? Would there be any instance where this might be relevant to the operation of the regime?
2. Do respondents consider that the definition of “tainted property” in Article 2 is appropriate?
3. Do respondents consider that the regime should apply to “mixed property” in the way outlined in Article 2?
4. Do respondents consider that the ways in which property shall cease to be tainted property are appropriate?
5. Do respondents consider that there are other ways in which the property should cease to be tainted property?
6. Do respondents consider that the provisions concerning cash seizure under Part 2 of the draft Law are appropriate? [Please note similarity of provisions to existing Cash Seizure (Jersey) Law 2008]
7. Do respondents consider that the refusal of consent and the passage of at least 12 months is the appropriate gateway to operate the summary procedure? Should a different time period be adopted?
8. Do respondents consider the persons on whom the notice should be served appropriate? Should the notice be served on any other persons?
9. Do respondents consider that the burden of proof outlined in Article 11(4) of the draft Law, namely “the respondent satisfies the Court that the property is not tainted property” is appropriate?
10. Do respondents consider that the conditions under which the making of an order under this Article may be appropriate (particularly as outlined in Article 12 (3)(a))?
11. Do respondents consider that the requirements under Article 12(5) of what a Property restraint order shall state and specify are appropriate?

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12. Do respondents consider that the provisions regarding the effect of a property restraint order are appropriate?
13. Do the respondents consider that the security interest and/or set-off provisions in Article 13(3) are appropriate?
14. Do respondents consider that the provisions regarding discharge of a property restraint order are appropriate?
15. Do respondents consider that the procedure in Article 15 for the operation of procedural track C – the General Procedure - is appropriate?
16. Do respondents consider that the burden of proof, being a civil standard (balance of probabilities) imposed upon the person against whom such an order would be made is appropriate?
17. Do respondents consider that the security interests and/or set-off provisions in Article 15(4) are appropriate?
18. Do respondents consider that the investigative powers in the draft Law are appropriate?
19. Do respondents that the definition of “customer information” included at Article 21 is appropriate?
20. Do respondents consider that the provisions relating to an order being made requiring a bank to provide customer information under Article 22 are appropriate?
21. Do respondents consider that the provisions relating to account monitoring orders, disclosure orders and copy and retention of documents are appropriate?
22. Do respondents consider that the provisions for release of restrained property in Article 27 are appropriate?
23. Do respondents consider that the limitation of liability provision in Article 28 and 29 applying to the Viscount and the Attorney General are appropriate?

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24. Do respondents consider that the Tipping off provisions included in Article 32 Law are appropriate?
25. Do respondents consider that it is appropriate for the Attorney General to make an agreement with all parties whose property is subject to the proceedings to effectively dispose of the proceedings?

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FORFEITURE OF ASSETS (CIVIL PROCEEDINGS) (JERSEY) LAW 201-

Report

Explanatory Note

This draft Law would provide for the circumstances in which assets suspected of being tainted property may legally be seized by authorized officers, and placed under restraint or ultimately forfeited, by order of the court.

Part 1 provides for interpretation of the Law. *Article 1* is a general interpretation provision containing definitions of, notably, “authorized officer”, “property” and “unlawful conduct” for the purposes of the whole Law. *Article 2* defines the key concept of “tainted property” (which may be in the form of cash, itself given a wide definition by *Article 1(2)*) and *Article 3* provides for the circumstances in which property may cease to be regarded as tainted.

Part 2 replaces and updates the provisions of the Cash Seizure (Jersey) Law 2008 (which would be repealed by *Article 36*, subject to a saving for existing proceedings under that Law). *Article 4* confers power on authorized officers to conduct searches for cash suspected of being tainted cash and *Article 5* confers power for the seizure of the whole or part of any such cash. *Article 6* provides that cash which has been seized may be detained for a maximum of 96 hours, and the Attorney General or an authorized officer may apply to the Bailiff under *Article 7* for a “cash detention order” authorizing detention for any longer period. The Bailiff may make such an order if satisfied that there are reasonable grounds for the suspicion that the cash is tainted, and that its continued detention is justified during further investigations or consideration being given to proceedings for unlawful conduct against any person in Jersey or elsewhere.

Notice of a cash detention order must be given to all persons affected by it, and the order may be cancelled if it appears to the Bailiff that any proposed proceedings to which it relates have not been instituted within a reasonable time. By *Article 8* the cash which is the subject of the cash detention order must be paid into and held in an interest-bearing account, and the interest if any must be added to the amount of the cash upon later forfeiture or release, unless the cash is evidence in proceedings and is required for forensic examination. The circumstances in which detained cash may be released are set out in *Article 9* and include release to a person from whom or from whose premises the cash was seized and detained. In general however cash may not be released until any proceedings are concluded as described by *Article 9(6)*.

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Part 3 deals with forfeiture of tainted property, which may occur in one of two ways. First, as provided by *Article 10*, the Attorney General may (where there are reasonable grounds to believe that property held at a bank in Jersey is tainted property and a suspicious activity report has been made in relation to the bank account in question or any property in the account) serve a notice on the holder of the account and on the bank requiring the holder to attend court to show cause why the property specified in the notice should not be forfeited. If the respondent to the notice fails to attend the hearing, the Attorney General may apply forthwith for an order for forfeiture of the property, which may be made without further notice under *Article 11(1)*. Unless the respondent satisfies the court that the property is not tainted property (either at that hearing or at a later hearing), the Attorney General may apply to the court for an order for forfeiture of the property or any part of it.

In relation to property which is suspected of being tainted but no report of suspicious activity has yet been received, the Attorney General may apply to the court under *Article 12* for a “property restraint order” prohibiting withdrawal, transfer or payment out of property specified in the order. Such an application may be made ex parte to the Bailiff in chambers. A property restraint order may be made where the court or the Bailiff is satisfied that there are reasonable grounds to believe that the property is tainted property and the making of an order is justified in the circumstances for a reasonable period again pending investigation or the bringing of proceedings. *Article 12(4)* gives wide power for related directions as to the management of the property whilst subject to the order, and for notice of the order to be given to persons affected by it. Once a property restraint order is made, *Article 13* provides that the property vests in the Viscount subject to any security interest or right of set-off enjoyed by the bank in which the property is held, and any interest accruing shall also be subject to the order and added to the property upon forfeiture or release.

Article 14 specifies that a property restraint order is discharged upon the making of a forfeiture order in respect of the same property, or by order where the Bailiff (or, if the Bailiff refers the matter to the court, the court) is satisfied that the reasons for which the order was made no longer apply. Under *Article 15* the Attorney General may apply to the court for a forfeiture order in relation to the whole or any part of property which is subject to a cash detention order or to a property restraint order. (Cash or other movable property which is forfeited pursuant to a forfeiture order under either *Article 11* or *Article 15* is to be paid into the Criminal Offences Confiscations Fund established under *Article 24* of the Proceeds of Crime (Jersey) Law 1999.)

Article 16 confers rights of appeal against forfeiture orders. *Article 17* makes provision as to the inter-relation of property restraint orders and forfeiture orders with proceedings for bankruptcy: in particular, no part of any person's property specified in a property restraint order which was made before the person was adjudged bankrupt may form part of the person's estate for bankruptcy proceedings.

Part 4 confers additional investigative powers on the Attorney General and authorized officers in connection with civil forfeiture investigations – defined by *Article 18* as investigations into matters specified in *Article 18(2)* and made with a view to, or in relation to, proceedings in Jersey in connection with suspected tainted property, or proceedings of a similar nature outside Jersey, or service requested by an external jurisdiction under *Article 2* of the Civil Asset Recovery (Jersey) Law 2007.

Articles 19, 22, 23 and 24 provide for the making of, respectively, production orders (requiring production, by the person to whom the order is addressed, of material specified in the order), customer information orders (requiring provision by the bank to whom the order is addressed of specified customer information), account monitoring orders, and disclosure orders. Failure to comply with any of these orders is an offence, punishable in the case of a production order by a

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maximum of 2 years' imprisonment and an unlimited fine and in other cases by a maximum of 6 months' imprisonment and an unlimited fine.

Article 20 sets out the circumstances in which the Attorney General, or an authorized officer, may apply for a search warrant in relation to premises on which it is suspected there may be material of substantial value in relation to a civil forfeiture investigation, namely that it is not practicable to communicate with any person entitled to grant access to the material or entry to the premises, or that entry will not be granted without a warrant or that the civil forfeiture investigation would be seriously prejudiced unless immediate entry by a police officer could be secured. Under *Article 20(6)* an officer entering premises in the execution of a warrant may seize and retain any material (other than legally privileged material) likely to be of substantial value to the investigation. *Article 25* confers power on the Attorney General, police officers and any other person authorized for the purpose by a production order, search warrant or disclosure order to do so, to take copies of documents and to retain original documents where necessary in connection with a civil forfeiture investigation or (in the case of the Attorney General only) for the purposes of legal proceedings.

Part 5 of the Law makes miscellaneous general provision. *Article 26* provides that proceedings (except offences) under the Law are civil proceedings to be determined on the balance of probabilities. *Article 27* enables victims of crime who have been deprived of property which is the subject of proceedings under this Law to apply to the court for that property to be released to them, prior to the making of any forfeiture order in respect of the property. *Articles 28 and 29* limit the liability of the Viscount and the Attorney General respectively, in carrying out their functions under the Law, unless any act is done in bad faith or (in the case of the Attorney General only) so as to prevent an award of damages under Article 7 of the Human Rights (Jersey) Law 2000. Under *Article 30*, provision is made for compensation to be payable where a person has suffered loss as a result of an act done in bad faith and the court considers it appropriate for an award of compensation to be made. *Article 31* creates a general offence of obstructing the Attorney General or an authorized officer in the lawful exercise of powers under the Law, punishable by imprisonment for a maximum term of 2 years and an unlimited fine; and *Article 32* creates an offence of tipping off and of interference with material relevant to a civil forfeiture investigation, which carries the penalty of imprisonment for a maximum term of 5 years and an unlimited fine. *Article 33* makes general provision as to liability of directors and similar officers of certain bodies for offences committed by those bodies. *Article 34* confers power on the court to consent to settlement of proceedings under Articles 11, 12 or 15 upon the application of the Attorney General.

Article 35 makes a consequential amendment to the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007, and *Article 36* effects the repeal of the Proceeds of Crime (Cash Seizure) (Jersey) Law 2008. *Article 37* gives the title by which this Law may be cited, and provides for its commencement one month after it is registered.



Jersey

FORFEITURE OF ASSETS (CIVIL PROCEEDINGS) (JERSEY) LAW 201-

Arrangement

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FORFEITURE OF ASSETS (CIVIL PROCEEDINGS) (JERSEY) LAW 201-

A LAW to provide for the seizure and forfeiture, by way of civil proceedings, of cash and other assets suspected to be property originating, or intended to be used, in unlawful conduct; to confer powers to investigate into the nature, ownership, extent and whereabouts of such property, including powers to search, to require information, and to monitor bank accounts; to create offences of obstruction of, and interference with, such investigations; to compensate owners of property wrongly seized or forfeited; and for connected purposes

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1 INTERPRETATION

1 Interpretation: general

(1) In this Law, unless otherwise provided or required by the context –

“account monitoring order” means an order under Article 23;

“authorized officer” means any police officer, customs officer, immigration officer and any officer, other than a police officer, of the Financial Intelligence Unit designated under Regulation 2 of the Proceeds of Crime (Financial Intelligence) (Jersey) Regulations 2015;

“bank” means any person or entity carrying on a deposit-taking business as defined in Article 3 of the Banking Business (Jersey) Law 1991, except –

- (a) the States;
- (b) the central bank of a Member State of the European Union;
- (c) the National Savings Bank of the United Kingdom; or

(d) subject to such conditions or restrictions as may be prescribed, any other prescribed person, entity or institution;

“cash” has the meaning given by paragraph (2);

“cash detention order” means an order under Article 7;

“civil forfeiture investigation” has the meaning given by Article 18;

“confiscation order” has the meaning given by Article 1 of the Proceeds of Crime (Jersey) Law 1999;

“Criminal Offences Confiscations Fund” means the fund of that name established under Article 24 of the Proceeds of Crime (Jersey) Law 1999;

“Court” means the Royal Court;

“customs officer” means the Agent of the Impôts and any other officer appointed pursuant to Article 4 of the Customs and Excise (Jersey) Law 1999;

“customer information” has the meaning given by Article 21;

“customer information order” means an order under Article 22;

“disclosure order” means an order under Article 24;

“forfeiture order” means an order for the forfeiture of tainted property made under either Article 11 or 15, as the case may be;

“immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 of the United Kingdom, as extended to Jersey by the Immigration (Jersey) Order 1993;

“material” may include but is not limited to the property which is the subject of a civil forfeiture investigation;

“Minister” means the Chief Minister;

“police officer” means a member of the States of Jersey Police Force;

“prescribed” means prescribed by Order of the Minister;

“property” means [movable] property situated in Jersey, whether vested or contingent, and including –

(a) any legal document or instrument evidencing title to or interest in property; and

(b) any interest in or power in respect of any property, including a right to possession

(and for the avoidance of doubt, except where the context does not permit or where otherwise specified, a reference to property includes reference to cash);

“property restraint order” means an order under Article 12;

“tainted cash” means tainted property in the form of cash;

“tainted property” has the meaning given by Article 2;

“unlawful conduct” means conduct –

(a) constituting an offence against a law of Jersey; or

- (b) which, if it occurs or has occurred outside Jersey, would have constituted such an offence if occurring in Jersey;
- “vehicle” includes a vessel, aircraft or hovercraft.
- (2) In this Law, “cash” means –
- (a) currency (that is, banknotes and coins in circulation, whether in Jersey or elsewhere, as a medium of exchange);
 - (b) bearer-negotiable instruments including monetary instruments in bearer form (such as travellers cheques);
 - (c) negotiable instruments (including cheques, promissory notes and money orders) which are –
 - (i) in bearer form,
 - (ii) endorsed without restriction,
 - (iii) made out to a fictitious payee, or
 - (iv) otherwise in such form that title to them passes upon delivery;
 - (d) incomplete instruments (that is, signed instruments including cheques, promissory notes and money orders, with the payee’s name omitted);
 - (e) forged or counterfeit versions of any of the items listed in subparagraphs (a) to (d); and
 - (f) such other types of monetary instruments as may be prescribed for the purposes of this definition.
- (3) In the calculation of any period for the purposes of Articles 6 and 8, if any part of the period includes part or all of a day which is –
- (a) a Saturday or a Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a bank holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951,
- the period shall be calculated without taking into account that day or part of a day.
- (4) The States may by Regulations amend any provision of this Part.

2 Meaning of "tainted property"

- (1) For the purposes of this Law, “tainted property” means property (as further defined by paragraphs (2) to (7)) which is or, by the Attorney General or any officer on whom powers are conferred by this Law, is reasonably suspected to be or have been –
- (a) used in, or intended to be used in, unlawful conduct; or
 - (b) obtained in the course of, from the proceeds of, or in connection with, unlawful conduct.
- (2) Property remains tainted property in the hands of a person to whom it is disposed, if the person disposing of it is –

- (a) a person who –
 - (i) used the property in, or intended it to be used in, unlawful conduct, or
 - (ii) obtained the property in the course of, from the proceeds of, or in connection with, unlawful conduct; or
 - (b) a person to whom the tainted property was disposed, by a person to whom sub-paragraph (a) or this sub-paragraph applies.
- (3) If a person enters into a transaction by which the person –
- (a) disposes of tainted property; and
 - (b) obtains other property in place of the tainted property,
- the other property so obtained is tainted property, whether or not any of paragraphs (4) to (6) of Article 3 apply in respect of the transaction or the property disposed of.
- (4) If a person's tainted property is mixed with other property (whether his or her property or another's), the portion of the mixed property which is attributable to the tainted property is tainted property.
- (5) Without limiting the generality of the expression "mixed with other property", for the purposes of paragraph (4), tainted property is mixed with other property if it is used –
- (a) to increase funds held in a bank account;
 - (b) in part payment for the acquisition of an asset;
 - (c) for the restoration or improvement of land; or
 - (d) for the purpose of merging or extinguishing interests in land.
- (6) If a person who has tainted property obtains further property consisting of profits accruing in respect of the tainted property, the further property is tainted property.
- (7) If a person grants an interest in his or her tainted property, the question of whether the interest is also tainted property is to be determined in the same manner as any other disposal of tainted property and accordingly upon the grant of the interest –
- (a) if the property in which the interest is granted is tainted property, the interest is also to be treated as tainted property;

- (b) if the property in which the interest is granted is tainted property if held by the person granting it, the interest is also to be treated as tainted property if held by him or her.

Consultation Question 1:

Do respondents consider that the application of the regime should be restricted to movable property, as currently drafted, or should it be extended to cover immovable property? Would there be any instance where this might be relevant to the operation of the regime?

Consultation Question 2:

Do respondents consider that the definition of “tainted property” in Article 2 is appropriate?

Consultation Question 3:

Do respondents consider that the regime should apply to “mixed property” in the way outlined in Article 2?

3 Property ceasing to be tainted property

- (1) Property may cease to be tainted property in any of the ways described in paragraphs (2) to (6).
- (2) Property forfeited under this or any other Law shall cease to be tainted property.
- (3) Property disposed of pursuant to an enactment shall cease to be tainted property if –
 - (a) the enactment is one which is prescribed for the purposes of this paragraph; and
 - (b) the property is of a class which is so prescribed.
- (4) If –
 - (a) a person disposes of tainted property; and
 - (b) another person, who obtains the property on the disposal, does so –
 - (i) in good faith,
 - (ii) for value, and
 - (iii) without notice that it is tainted property,the property shall cease to be tainted property.
- (5) If –
 - (a) pursuant to a judgment in civil proceedings (whether in Jersey or elsewhere) –

- (i) the respondent or defendant makes a payment to the claimant or plaintiff, or
 - (ii) the claimant or plaintiff otherwise obtains property from the respondent or defendant;
 - (b) the claim in the proceedings arose from the respondent or defendant's unlawful conduct; and
 - (c) apart from this paragraph, the property received by the claimant or plaintiff would be tainted property,
- the property shall cease to be tainted property.

(6) If –

- (a) a payment is made to a person pursuant to a compensation order under Article 2 of the Criminal Justice (Compensation Orders) (Jersey) Law 1994 or any like order made under another enactment; and
 - (b) apart from this paragraph, the property received by way of such payment would be tainted property,
- the property shall cease to be tainted property.

Consultation Question 4:

Do respondents consider that the ways in which property shall cease to be tainted property are appropriate?

Consultation Question 5:

Do respondents consider that there are other ways in which the property should cease to be tainted property?

PART 2

CASH SEIZURE

4 Searches for cash

- (1) An authorized officer –
 - (a) who is lawfully on any premises; and
 - (b) who has reasonable grounds for suspecting that there is, on the premises, cash that is tainted cash,

may search the premises for cash and may, for the purposes of such a search, break open and search any item of furniture, safe or other container found on the premises.

- (2) An authorized officer who has reasonable grounds for suspecting that a person is carrying tainted cash (including carrying it in any vehicle) may require the person, or a person who is in the company of the person, to do all or any of the following –
 - (a) bring to a stop a vehicle that the person is driving and permit the officer to search the vehicle and any article in the vehicle;
 - (b) permit the officer to search a vehicle in which the person is or has been situated and to search any article in the vehicle;
 - (c) permit a search by the officer of any article of which the person has possession;
 - (d) permit the officer to break open any container;
 - (e) remove his or her clothing or headgear so as to enable a search of the person to be conducted;
 - (f) permit an officer of the same sex as the person to search the person, and to remain in the officer's detention for as long as is necessary to complete any search under this paragraph.
- (3) The powers conferred by this Article –
 - (a) are in addition to any similar power otherwise conferred by this Law or any other enactment; and
 - (b) are exercisable only so far as is reasonably required for the purpose of finding tainted cash.

5 Seizure of cash

- (1) An authorized officer may seize any cash if he or she has reasonable grounds for suspecting that it is tainted cash.
- (2) An authorized officer may also seize cash, part of which he or she has reasonable grounds for suspecting to be tainted cash, if it is not reasonable to seize only that part.
- (3) If an authorized officer seizes cash under this Article, he or she must provide to any person –
 - (a) who appears to have had possession of the cash immediately before it was seized; or
 - (b) on whose premises the seized cash was found,a receipt specifying the amount, currency and denomination of the cash.

6 Initial detention of seized cash for 96 hours

Cash seized under this Law may be detained for an initial period of up to 96 hours, if the authorized officer continues during that period to have reasonable grounds for his or her suspicion that part or all of the cash is tainted cash.

7 Orders authorizing detention of cash for longer than 96 hours

- (1) An application may be made to the Bailiff by –
 - (a) the Attorney General; or

- (b) an authorized officer, with the consent of the Attorney General, for an order (a “cash detention order”) to be made under this Article, authorizing the detention of cash seized under this Part.
- (2) An application under paragraph (1) must be made before the expiry of the existing authority for detention of the cash to which the application relates, whether such authority is given under Article 6 or by a previous cash detention order.
- (3) More than one application may be made under paragraph (1) in relation to cash seized under this Law.
- (4) The Bailiff may not make a cash detention order unless he or she is satisfied –
 - (a) that there are reasonable grounds for suspecting that the cash to which the application relates is tainted cash; and
 - (b) that the continued detention of the cash is justified while –
 - (i) its origin or derivation is further investigated, or
 - (ii) consideration is given to bringing (in Jersey or elsewhere) proceedings against any person for unlawful conduct by reason of which the cash is alleged to be tainted cash.
- (5) A cash detention order shall provide for notice to be given to all persons affected by it.
- (6) The Bailiff may cancel a cash detention order if it appears to the Bailiff (whether of the Bailiff’s own motion, or on an application made by a person to whom notice was given under paragraph (5)) that any proposed proceedings to which the order relates have not been instituted within the time which the Bailiff considers reasonable.

8 Treatment of detained cash

- (1) Subject to paragraph (3), cash detained under the authority of a cash detention order for more than 96 hours shall be paid into and held in an interest-bearing bank account.
- (2) Any interest accruing to the bank account in respect of detained cash shall be added to the amount of the cash on its forfeiture under Article 15 or its release under Article 9.
- (3) Paragraph (1) does not apply if and for so long as the cash –
 - (a) is required as evidence of an offence or evidence in proceedings under this Law, the Proceeds of Crime (Jersey) Law 1999, or the Terrorism (Jersey) Law 2002; or
 - (b) is being dealt with for the purposes of being forensically examined.
- (4) On paying in to the account any cash which was seized under Article 5(2), the authorized officer must release so much of the cash as is not subject to the cash detention order.

9 Release of detained cash

- (1) This Article applies while any cash is detained under Article 6 or 7.

- (2) Subject to paragraph (6), the cash may be released –
 - (a) by order of the Bailiff –
 - (i) pursuant to cancellation of a cash detention order under Article 7(6), or
 - (ii) under paragraph (4);
 - (b) by an authorized officer, under Article 8(4); or
 - (c) by the Attorney General, under paragraph (5).
- (3) A person from whom, or from whose premises, cash has been seized and detained under this Law may apply to the Bailiff for an order to release all or any part of the cash.
- (4) If, on an application under paragraph (3), the Bailiff is satisfied that the conditions in Article 7(4) are not, or are no longer, met in relation to the cash to which the application relates, the Bailiff may order the release to the applicant of the whole or any part of the cash, and such an order shall provide for notice to be given to persons affected by it.
- (5) The Attorney General may authorize the release of the whole or any part of the cash if satisfied that the detention of the cash is no longer justified.
- (6) Cash shall not be released –
 - (a) where an application for a forfeiture order has been made in relation to the cash, until any proceedings pursuant to the application (including any proceedings on appeal) are concluded;
 - (b) where proceedings are started, in Jersey or elsewhere, against any person for unlawful conduct by reason of which the cash is alleged to be tainted cash, until those proceedings are concluded.
- (7) For the purposes of paragraph (6)(b), proceedings against any person for an offence are concluded when –
 - (a) the prosecution is discontinued;
 - (b) the jury, if any, is discharged without a finding and no further jury is empanelled;
 - (c) the person is acquitted of the offence;
 - (d) following the person's conviction, the time within which an application for leave to appeal, or an appeal, against the conviction expires (disregarding any power to grant an application after that time has expired); or
 - (e) following the person's conviction, his or her application for leave to appeal, or appeal, against the conviction is either withdrawn or determined by a court from which there lies no further right of appeal.

Consultation Question 6: *Please note provisions predominantly unchanged from those in the Proceeds of Crime (Cash Seizure) (Jersey) Law 2008*

Do respondents consider that the provisions concerning cash seizure under Part 2 of the draft Law are appropriate?

PART 3

FORFEITURE OF TAINTED PROPERTY

10 Notice to be given of summary procedure

- (1) Where the conditions in paragraph (2) are fulfilled, a notice may be served in accordance with paragraph (4) by the Attorney General upon the holder of an account held at a bank in Jersey.
- (2) The conditions mentioned in paragraph (1) are that –
 - (a) the Attorney General has reasonable grounds to believe that property held in the bank account is tainted property;
 - (b) in relation to the bank account or any property in the bank account, a consent request has been made to an authorized officer;
 - (c) an authorized officer refused the consent requested; and
 - (d) notification of the refusal was given to the reporting person at least 12 months before the date on which the notice is to be served.
- (3) For the purposes of paragraph (2)(b), a “consent request” means a request –
 - (a) under Article 32 of the Proceeds of Crime (Jersey) Law 1999, to do any act or to deal with property held in the bank account in any way which would, apart from paragraph (3) of that Article, amount to the commission of an offence under Article 30 or 31 of that Law; or
 - (b) under Article 18 of the Terrorism (Jersey) Law 2002 to do anything which would, apart from paragraph (1) of that Article, amount to the commission of an offence under Article 15 or 16 of that Law, made by a person making a disclosure in accordance with either of those Articles.
- (4) A notice under this Article shall be a notice by way of representation and shall –
 - (a) state the name of the holder of the bank account to whom it is addressed;
 - (b) specify the details of the bank account and of the property or part of the property in the bank account which in the opinion of the Attorney General is tainted property;

- (c) state a date on which, and a place and time at which, the holder of the bank account is required to attend a hearing of the Court to show cause why the property so specified is not tainted property and should not be forfeited; and
- (d) be served on –
 - (i) the holder of the bank account, and
 - (ii) the bank at which the account in question is held,

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

11 Forfeiture of tainted property: summary procedure

- (1) If the person on whom a notice under Article 10(4)(d)(i) is served (the “respondent”) fails to attend the hearing as required by the notice, the Attorney General may apply forthwith for a forfeiture order, and the Court may make such an order, without further notice to the respondent.
- (2) If the respondent appears (whether in person or by a legal representative) at the hearing, the respondent may –
 - (a) at the hearing, satisfy the Court that the property is not tainted property; or
 - (b) request that the question of whether or not the property is tainted property be determined at such later date as the Court may order.
- (3) If the respondent makes a request under paragraph (2)(b), the respondent must provide an affidavit in answer to the notice within the period of 21 days beginning with the date on which the matter is placed on the list, satisfying the Court that the property is not tainted property.
- (4) Unless the respondent satisfies the Court that the property is not tainted property, the Court shall, upon the application of the Attorney General, make a forfeiture order in relation to the property specified in the notice or any part of it.

- (5) Property which is forfeited pursuant to a forfeiture order under this Article shall be paid into the Criminal Offences Confiscations Fund established under Article 24 of the Proceeds of Crime (Jersey) Law 1999.

Consultation Question 7:

Do respondents consider that the refusal of consent and the passage of at least 12 months is the appropriate gateway to operate the summary procedure? Should a different time period be adopted?

Consultation Question 8:

Do respondents consider the persons on whom the notice should be served appropriate? Should the notice be served on any other persons?

Consultation Question 9:

Do respondents consider that the burden of proof outlined in Article 11(4) of the draft Law, namely “the respondent satisfies the Court that the property is not tainted property” is appropriate?

Consultation Question 10:

Do respondents consider that the burden of proof outlined in Article 11(4) of the draft Law, namely “the respondent satisfies the Court that the property is not tainted property is appropriate?

12 Property restraint orders

- (1) Where, in any case other than one to which Article 10 applies, the Attorney General has reasonable grounds to believe that property held in any bank account is tainted property, the Attorney General may apply for an order under this Article (a “property restraint order”) prohibiting the withdrawal, transfer or payment out of the bank account of the property, or part of the property, as specified in the application.
- (2) An application under paragraph (1) shall be made ex parte to the Bailiff in Chambers.
- (3) Pursuant to an application under paragraph (1), and subject to Article 17, the Bailiff may make a property restraint order in relation to any property specified in the order if the Bailiff is satisfied that there are reasonable grounds to believe that the property in question is tainted property, and that either –
- (a) the making of such an order is justified in all the circumstances and for a reasonable period whilst –

- (i) the origin or derivation of the property is further investigated, or
 - (ii) consideration is given to bringing forfeiture proceedings in Jersey in respect of the property; or
 - (b) such forfeiture proceedings have been commenced but not concluded.
- (4) In making a property restraint order the Bailiff may make such further provision and give all such directions as are considered reasonable, including (but not limited to) –
- (a) directions relating to the management of or dealing with the property;
 - (b) provision as to the duration of the prohibition to be placed on the property by the order; and
 - (c) directions as to service on, or the provision of notice to, persons affected by it.
- (5) A property restraint order shall –
- (a) state the name of the holder of the bank account in relation to which it is made;
 - (b) specify the details of the bank account and of the property or part of the property in respect of which it is made;
 - (c) specify the date on which that property shall vest in the Viscount under Article 13; and
 - (d) specify any conditions upon which it is made and any directions given under paragraph (4).

Consultation Question 10:

Do respondents consider that the conditions under which the making of an order under this Article may be appropriate (particularly as outlined in Article 12 (3)(a))?

Consultation Question 11:

Do respondents consider that the requirements under Article 12(5) of what a Property restraint order shall state and specify are appropriate?

Consultation Question 12:

Do respondents consider that the provisions regarding the effect of a property restraint order are appropriate?

13 Effect of property restraint order

- (1) Property which is specified in a property restraint order shall vest in the Viscount –
 - (a) from the date specified in the order; and
 - (b) in accordance with paragraph (3).
- (2) The bank holding the account in question, or any other person specified in a property restraint order as having possession of the specified property, may be required by the order to give possession of the specified property to the Viscount.
- (3) Property vesting in the Viscount under this Article shall, to the extent that it is subject to any security interest or to any right of set-off enjoyed by the bank, continue to be so subject unless the Bailiff, being satisfied that –
 - (a) such an interest or right was not obtained, given or created in good faith; or
 - (b) for any other reason, it is appropriate in the interests of justice so to order,
orders otherwise.
- (4) If and to the extent that a property restraint order affects immovable property in Jersey, the Bailiff shall order the registration of the property restraint order in the Public Registry.
- (5) Any interest accruing to a bank account in respect of property which is specified in a property restraint order shall also be subject to the order, and shall be added to the property upon forfeiture or release.
- (6) The Viscount shall be entitled to be remunerated out of property vesting in him or her for such fees and expenses as he or she may incur in the management of such property.

14 Discharge of property restraint order

- (1) A property restraint order in respect of any property shall be discharged upon the making of a forfeiture order in respect of the same property.
- (2) An application for the discharge or variation of a property restraint order may be made to the Bailiff in Chambers by any person affected by the order and the Bailiff may rule upon the application in accordance with paragraph (3) or, at the Bailiff's discretion, refer it to the Court for adjudication.
- (3) The Bailiff may not order the discharge of a property restraint order unless the Bailiff is satisfied that the reasons for which the property restraint order was made under Article 12(3) no longer apply.
- (4) The Bailiff or, as the case may be, the Court may order the release of so much of the property in question as it considers appropriate to enable the applicant to meet legal expenses in connection with the application for variation or discharge.

- (5) An order for discharge or variation of a property restraint order may be made subject to such terms or upon such conditions as the Bailiff or, as the case may be, the Court may think fit.
- (6) Notice of an application under this Article shall be given to the Attorney General and to all other persons affected by the property restraint order.

Consultation Question 13:

Do the respondents consider that the security interest and/or set-off provisions in Article 13(3) are appropriate?

Consultation Question 14:

Do respondents consider that the provisions regarding discharge of a property restraint order are appropriate?

15 Forfeiture of tainted property: general procedure

- (1) The Attorney General may apply to the Court for a forfeiture order to be made under paragraph (2) in relation to the whole or any part of property which is subject to a cash detention order or a property restraint order.
- (2) Upon receipt of an application under paragraph (1), the Court shall give notice of the application to all persons to whom notice of the cash detention order or the property restraint order, as the case may be, was given.
- (3) Unless the Court is satisfied, by the person against whom such an order is proposed to be made, that the property in question is not tainted property, the Court shall make an order for the forfeiture of the property.
- (4) A forfeiture order may be made subject to any security interest or to any right of set-off enjoyed by the bank in the property, unless the Court is satisfied that such an interest or right was not obtained, given or created in good faith.
- (5) A forfeiture order may be made whether or not proceedings are or are to be brought against any person for an offence with which the property in question is connected.
- (6) Cash or other movable property which is forfeited pursuant to a forfeiture order under this Article shall be paid into the Criminal Offences Confiscations Fund established under Article 24 of the Proceeds of Crime (Jersey) Law 1999.

Consultation Question 15:

Do respondents consider that the procedure in Article 15 for the operation of procedural track C – the General Procedure - is appropriate?

Consultation Question 16:

Do respondents consider that the burden of proof, being a civil standard (balance of probabilities) imposed upon the person against whom such an order would be made is appropriate?

Consultation Question 17:

Do respondents consider that the security interests and/or set-off provisions in Article 15(4) are appropriate?

16 Appeals against forfeiture orders

- (1) Any party (other than the Attorney General) to proceedings in which a forfeiture order is made (whether under Article 11 or Article 15) may appeal to the Court of Appeal against the making of the order.
- (2) On an appeal under paragraph (1) the Court of Appeal may order the release of so much of the property in question as it considers appropriate to enable the appellant to meet legal expenses in connection with the appeal.
- (3) Any person who is not a party to proceedings described in paragraph (1), but is affected by such proceedings, may appeal with the leave of the Court of Appeal against the making of a forfeiture order.
- (4) On hearing an appeal under this Article the Court of Appeal may make such order and give such directions as it considers appropriate.

17 Bankruptcy

- (1) Where a property restraint order specifies property of a person who is adjudged bankrupt by an order made after the property restraint order, no property of that person specified in the property restraint order or vested in the Viscount under Article 13 shall form part of that person's estate for the relevant bankruptcy proceedings.
- (2) The powers conferred on the Bailiff under Article 12 shall not be exercised in relation to –

- (a) property which a person who has become bankrupt has placed under the control of the Court (a remis entre les mains de la Justice);
 - (b) property which has been declared en désastre;
 - (c) property of which a person who has become bankrupt has made a general cession (a fait cession générale); or
 - (d) property which has been adjudged renounced (adjudé renoncé).
- (3) Paragraph (2) does not affect the application of Articles 13 or 15 in relation to property which was specified in a property restraint order made before the person mentioned in paragraph (6)(a) or (c) became bankrupt.
- (1) A person who claims that any property or part of any property restrained under Article 12 lawfully belongs to him or her may apply for the property or part of it to be released to him or her under this Article.
- (2) An application under this Article may be made –
- (a) in the course of proceedings under Article 11, 12, 14 or 15; or
 - (b) at any other time before the property is forfeited pursuant to a forfeiture order under Article 11 or 15.
- (5) If, on an application under this Article, the Court or the Bailiff (as the case may be) is satisfied that –
- (a) the applicant was deprived of the property by unlawful conduct;
 - (b) the property of which the applicant was deprived was not, immediately before he or she was deprived of it, obtained by or in return for unlawful conduct and nor did it then represent cash or property obtained by or in return for unlawful conduct; and
 - (c) the property belongs to the applicant,

the Court or the Bailiff shall order the property to be released to the applicant and (where the application is made in the course of proceedings under Article 11 or 15) shall do so instead of making a forfeiture order.

PART 4

INVESTIGATIVE ETC. POWERS

18 Civil forfeiture investigations

- (1) For the purposes of this Law, a “civil forfeiture investigation” is an investigation being conducted, in Jersey or elsewhere, into all or any of the matters listed in paragraph (2), with a view or in relation to –
- (a) proceedings being brought under this Law in connection with any property which is or is reasonably suspected of being tainted property;
 - (b) non-conviction based proceedings being brought –
 - (i) under legislation in force in any country or territory other than Jersey,
 - (ii) relating to the forfeiture of property in Jersey,
 - (iii) by a court of that other country or territory; or

- (c) service of a process or document under Article 2 of the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007, where a request for such service has been received by the Attorney General as described in that Article.
- (2) The matters mentioned in paragraph (1) are –
 - (a) the question of whether any property is tainted property;
 - (b) the identity, or suspected unlawful conduct, of any person who holds property which is suspected of being tainted property, or to whom such property belongs;
 - (c) the extent or whereabouts of such property.

19 Production orders

- (1) The Attorney General, or an authorized officer acting with the Attorney General's consent, may, for the purposes of a civil forfeiture investigation, apply to the Bailiff for an order under this Article in relation to material specified in the application.
- (2) An application under this Article must –
 - (a) be made in writing;
 - (b) state the grounds for believing that the material specified in the application is relevant to a civil forfeiture investigation; and
 - (c) give details of that investigation, having regard to Article 18, including details of the property to which it relates,.
- (3) If, on such an application, the Bailiff is satisfied that the conditions in paragraph (5) are fulfilled, the Bailiff may make an order (a “production order”) that the person who appears to be in possession of the material specified in the application shall –
 - (a) produce the material to an authorized officer for the officer to take away; or
 - (b) give an authorized officer access to the material and, if so required by the officer, permit him or her to make copies of it, within such period as the order may specify.
- (4) The period to be specified in a production order shall be 7 days, unless it appears to the Bailiff that a longer or shorter period would be appropriate in the particular circumstances of the application.
- (5) The conditions to which paragraph (3) refers are –
 - (a) that there are reasonable grounds for suspecting that the material specified in the application is, forms part of, or relates to, tainted property;
 - (b) that there are reasonable grounds for suspecting that the material so specified –
 - (i) is likely to be of substantial value (whether by itself or together with other material) to the civil forfeiture investigation in relation to which the application is made, and
 - (ii) does not consist of or include items subject to legal privilege or other excluded material; and

- (c) that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given, having regard –
 - (i) to the benefit likely to accrue to the investigation if the material is produced, and
 - (ii) to the circumstances in which the person in possession of the material holds it.
- (6) Where by a production order an authorized officer is to be given access to material held in any premises, the Bailiff may further, on the application of the Attorney General or an authorized officer order any person who appears to the Bailiff to be entitled to grant entry to those premises, to allow such an officer to enter the premises and obtain access to the material.
- (7) An application under paragraph (2) or (6) may be made ex parte to the Bailiff in chambers.
- (8) A person who, without reasonable excuse, fails to comply with a production order is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (9) An application for the discharge or variation of a production order may be made to the Bailiff in chambers, and the Bailiff may rule upon the application or may, at the Bailiff's discretion, refer it to the Court for adjudication.
- (10) Where the material to which an application under paragraph (2) or (6) relates consists of information contained in a computer –
 - (a) an order under paragraph (3)(a) to produce material to an authorized officer for the officer to take away shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
 - (b) an order under paragraph (3)(b) giving an authorized officer access to material shall have effect as an order to give access to the material in a form in which it is visible and legible.
- (11) A production order –
 - (a) shall not confer any right to production of, or access to, items subject to legal privilege or other excluded material;
 - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any enactment or contract or otherwise; and
 - (c) may be made in relation to property in the possession of a department of the States of Jersey.
- (12) In paragraphs (5)(b)(ii) and (11)(a), “excluded material” has the meaning given by Article 6 of the Police Procedures and Criminal Evidence (Jersey) Law 2003.

20 Authority for search

- (1) The Attorney General or an authorized officer may, for the purposes of a civil forfeiture investigation, apply to the Bailiff for a warrant under this Article in relation to premises specified in the application.

- (2) An application under this Article must –
- (a) be made in writing;
 - (b) state the grounds for believing that the material specified in the application is relevant to a civil forfeiture investigation;
 - (c) give details of that investigation, having regard to Article 18, including details of the property to which it relates.
- (3) An application by an authorized officer for a warrant under this Article may only be made with the consent of the Attorney General.
- (4) On such an application, the Bailiff may issue a warrant authorizing an officer together with any other person named in the warrant to enter (if necessary by force) and search the premises, if the Bailiff is satisfied that –
- (a) an order under Article 19 in relation to the specified material has not been complied with; or
 - (b) the conditions in either –
 - (i) paragraph (4), or
 - (ii) paragraph (5)are fulfilled.
- (4) The conditions to which paragraph (3)(b)(i) refers are –
- (a) that the conditions in Article 19(5) are fulfilled in relation to material on the specified premises; and
 - (b) that it would not be appropriate to make an order under Article 19 in relation to the material, because –
 - (i) it is not practicable to communicate with any person entitled to produce the material,
 - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entry to the specified premises on which the material is to be found, or
 - (iii) the civil forfeiture investigation might be seriously prejudiced unless an officer could secure immediate access to the property.
- (5) The conditions to which paragraph (3)(b)(ii) refers are –
- (a) that there are reasonable grounds for suspecting that there is, on the specified premises, such material relating to the tainted property or to the question as to whether or not the specified property is tainted property, as –
 - (i) is (whether by itself or together with other material) likely to be of substantial value to the civil forfeiture investigation, but
 - (ii) cannot at the time of the application be further particularized; and
 - (b) that either –
 - (i) it is not practicable to communicate with any person entitled to grant access to the material or entry to the specified premises,

- (ii) entry to the premises will not be granted unless a warrant is produced, or
 - (iii) the civil forfeiture investigation might be seriously prejudiced unless an officer arriving at the premises could secure immediate entry to them.
- (6) Where an authorized officer has entered premises in the execution of a warrant issued under this Article, the officer may seize and retain any material (other than items subject to legal privilege) which is likely to be of substantial value (whether by itself or together with other material) to the civil forfeiture investigation.

Consultation Question 18:

Do respondents consider that the security interests and/or set-off provisions in Article 15(4) are appropriate?

21 Customer information

- (1) For the purposes of this Law “customer information” means (subject to Regulations made under paragraph (3)) –
 - (a) information as to whether a business relationship exists or has existed between a bank and a particular person (and where such a relationship exists or has existed, such a person is a “customer” of the bank);
 - (b) a customer’s –
 - (i) account number,
 - (ii) full name,
 - (iii) date of birth,
 - (iv) address or former address;
 - (c) the date on which a business relationship between a bank and a customer begins or ends;
 - (d) any evidence of a customer’s identity obtained by a bank in pursuance of or for the purposes of any legislation relating to money laundering;
 - (e) any evidence otherwise within the knowledge of a bank as to the source of any of a customer’s funds held by that bank;
 - (f) the identity of any person sharing an account with a customer.
- (2) In paragraph (1) –

“business relationship” means a business, professional or commercial relationship between a bank and a customer where that relationship is expected by the bank, at the time when contact is established, to have an element of duration; and

“money laundering” has the same meaning as given by Article 1(1) of the Proceeds of Crime (Jersey) Law 1999.

- (3) The States may by Regulations –
 - (a) provide for a class of information to be customer information, or to cease to be customer information; and
 - (b) extend the meaning of the expression “business relationship”, for the purposes of this Law.

Consultation Question 19:

Do respondents think that the definition of “customer information” included at Article 21 is appropriate?

22 Orders to provide customer information

- (1) The Attorney General or an authorized officer may, for the purposes of a civil forfeiture investigation, apply to the Bailiff for an order under this Article requiring a bank to provide customer information.
- (2) An application under this Article must –
 - (a) be made in writing;
 - (b) state that property specified in the application is subject to a civil forfeiture investigation, and give details of that investigation, having regard to Article 18;
 - (c) state that –
 - (i) a person specified in the application appears to hold all or a part of the property, or
 - (ii) all or a part of the property appears to belong to such a person;
 - (d) specify the bank against which the order is sought (and an application may specify all banks, a particular description or descriptions of bank, or a particular bank or banks); and
 - (e) specify the customer information sought.
- (3) An application by an authorized officer for an order under this Article may only be made with the consent of the Attorney General.
- (4) On such an application, the Bailiff may make an order (a “customer information order”) requiring the bank to provide the customer information in accordance with paragraph (5), if the Bailiff is satisfied that –
 - (a) there are reasonable grounds for suspecting that the specified property is tainted property;
 - (b) there are reasonable grounds for suspecting that the customer information sought by the application is (whether by itself or together with other material) likely to be of substantial value to the civil forfeiture investigation; and

- (c) it is in the public interest for such customer information to be provided, having regard to the benefit likely to accrue to the investigation and to the circumstances in which the bank in possession of the information holds it.
- (5) The bank against which a customer information order is made shall provide the customer information –
 - (a) in such manner and within such time as the order may specify; and
 - (b) notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any enactment or contract or otherwise.
- (6) A person failing to comply with a requirement imposed by or under a customer information order shall be guilty of an offence and liable to imprisonment for a term of 6 months and a fine, but it shall be a defence for a person charged with an offence under this Article to prove that –
 - (a) the customer information was not in the person’s possession; or
 - (b) it was not reasonably practicable for the person to comply with the order.
- (7) An application for the discharge or variation of a customer information order may be made to the Bailiff in chambers, and the Bailiff may rule upon the application or may, at the Bailiff’s discretion, refer it to the Court for adjudication.
- (8) Customer information provided by a bank pursuant to a customer information order shall not be admissible as evidence in criminal proceedings against the bank or any of its employees, except –
 - (a) in proceedings for an offence under paragraph (6) or for contempt of court;
 - (b) in proceedings for or in respect of a confiscation order; or
 - (c) subject to paragraph (9), where in any prosecution, in evidence given on the part of the bank a statement is made which is inconsistent with the statement made pursuant to the account monitoring order.
- (9) A statement may not be used as evidence against a bank by virtue of paragraph (8)(c) unless evidence relating to it is adduced, or a question relating to it is asked, by or on behalf of the bank in the proceedings arising out of the prosecution.

Consultation Question 20:

Do respondents consider that the provisions relating to an order being made requiring a bank to provide customer information under Article 22 are

23 Account monitoring orders

- (1) The Attorney General or an authorized officer may, for the purposes of a civil forfeiture investigation, apply to the Bailiff for an account monitoring order under this Article.
- (2) An application under this Article must –
 - (a) be made in writing;
 - (b) state that property specified in the application is subject to a civil forfeiture investigation and give details of the nature of the investigation, having regard to Article 18;
 - (c) state that a person specified in the application appears to hold all or a part of the property, or all or a part of the property appears to belong to such a person;
 - (d) specify the bank against which the order is sought (and an application may specify all banks, a particular description or descriptions of bank, or a particular bank or banks);
 - (e) state that the order is sought against the specified bank in relation to information which –
 - (i) relates to an account or accounts held with the bank by the person specified in the application (whether solely or jointly with another), and
 - (ii) is of a description specified in the order.
- (3) The application may further specify that the information sought is information relating to –
 - (a) all accounts that the specified person holds with the specified bank;
 - (b) a particular description or descriptions of accounts so held; or
 - (c) a particular account or accounts so held.
- (4) An application by an authorized officer for an order under this Article may only be made with the consent of the Attorney General.
- (5) On such an application, the Bailiff may make an order requiring the bank to provide the information sought by the application in accordance with paragraph (6) (an “account monitoring order”), if the Bailiff is satisfied that –
 - (a) there are reasonable grounds for suspecting that the specified property is tainted property;
 - (b) there are reasonable grounds for suspecting that the information sought by the application is (whether by itself or together with other material) likely to be of substantial value to the civil forfeiture investigation; and
 - (c) it is in the public interest for such information to be provided, having regard to the benefit likely to accrue to the investigation and to the circumstances in which the bank in possession of the information holds it.
- (6) An account monitoring order is an order that the specified bank must –
 - (a) for the period specified in the order;
 - (b) in the manner so specified; and

- (c) at or by a time so specified and at a place so specified,
provide information of the specified description to a police officer named
in the order.
- (7) A person failing to comply with a requirement imposed by or under an
account monitoring order shall be guilty of an offence and liable to
imprisonment for a term of 6 months and to a fine, but it shall be a defence
for a person charged with an offence under this Article to prove that –
- (a) the information sought was not in the person’s possession; or
- (b) it was not reasonably practicable for the person to comply with the
order.
- (8) An application for the discharge or variation of an account monitoring
order may be made to the Bailiff in chambers, and the Bailiff may rule
upon the application or may, at the Bailiff’s discretion, refer it to the Court
for adjudication.
- (9) An account monitoring order –
- (a) shall not confer any right to production of, or access to, items subject
to legal privilege or other excluded material;
- (b) shall have effect notwithstanding any obligation as to secrecy or
other restriction upon the disclosure of information imposed by any
enactment or contract or otherwise; and
- (c) may be made in relation to property in the possession of a
department of the States of Jersey,
and in paragraph (a), “excluded material” has the meaning given by Article
6 of the Police Procedures and Criminal Evidence (Jersey) Law 2003.
- (10) A statement made by a bank pursuant to an account monitoring order shall
not be admissible as evidence in criminal proceedings against the bank or
any of its employees, except –
- (a) in proceedings for an offence under paragraph (7) or for contempt
of court;
- (b) in proceedings for or in respect of a confiscation order; or
- (c) subject to paragraph (11), where in any prosecution, in evidence
given on the part of the bank a statement is made which is
inconsistent with the statement made pursuant to the account
monitoring order.
- (11) A statement may not be used as evidence against a bank by virtue of
paragraph (10)(c) unless evidence relating to it is adduced, or a question
relating to it is asked, by or on behalf of the bank in the proceedings arising
out of the prosecution.

24 Disclosure orders

- (1) The Attorney General or an authorized officer may, for the purposes of a
civil forfeiture investigation, apply to the Bailiff for a disclosure order
under this Article.

- (2) An application under this Article must –
- (a) be made in writing;
 - (b) state that property specified in the application is subject to a civil forfeiture investigation and give details of the nature of the investigation, having regard to Article 18;
 - (c) state that a person specified in the application appears to hold information (whether or not contained in a document) which the Attorney General or authorized officer considers to be relevant to the investigation ("relevant information").
- (3) An application for an order under this Article –
- (a) may not be made by an authorized officer except with the consent of the Attorney General; and
 - (b) may be made ex parte to the Bailiff in chambers.
- (4) On such an application, the Bailiff may make a disclosure order in accordance with paragraph (5), if the Bailiff is satisfied that –
- (a) there are reasonable grounds for suspecting that the specified property is tainted property;
 - (b) there are reasonable grounds for suspecting that the relevant information sought by the application is (whether by itself or together with other information) likely to be of substantial value to the civil forfeiture investigation; and
 - (c) it is in the public interest for the relevant information to be provided, having regard to the benefit likely to accrue to the investigation and to the circumstances in which the person in possession of the relevant information holds it.
- (5) A disclosure order is an order authorizing the Attorney General or an authorized officer to give notice in writing –
- (a) to any person considered to hold relevant information;
 - (b) requiring that person, in respect of any matter relevant to the civil forfeiture investigation, to do all or any of the following –
 - (i) to answer questions, at or by a time specified in the notice or at once, and at a place so specified,
 - (ii) to provide information, or information of a class or description, specified (so far as possible) in the notice, at or by a time and in a manner specified in the notice,
 - (iii) to produce documents, or documents of a class or description specified in the notice, at or by a time so specified or at once, and in a manner so specified.
- (6) A disclosure order may be made –
- (a) whether or not notice of the application has been given to any person other than the person required to comply with the notice under paragraph (5); and
 - (b) subject to such further terms and conditions as the Bailiff thinks fit.
- (7) A person failing without reasonable excuse to comply with a requirement imposed by or under a disclosure order shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine, but it shall be

a defence for a person charged with an offence under this Article to prove that –

- (a) the relevant information sought was not in the person’s possession; or
 - (b) it was not reasonably practicable for the person to comply with the order.
- (8) An application for the discharge or variation of a disclosure order may be made to the Bailiff in chambers, and the Bailiff may rule upon the application or may, at the Bailiff’s discretion, refer it to the Court for adjudication.
- (9) A disclosure order –
- (a) shall not confer any right to production of, or access to, items subject to legal privilege or other excluded material;
 - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any enactment or contract or otherwise; and
 - (c) may be made in relation to property in the possession of a department of the States of Jersey,
- and in paragraph (a), “excluded material” has the meaning given by Article 6 of the Police Procedures and Criminal Evidence (Jersey) Law 2003.
- (10) A statement made by a person pursuant to a disclosure order shall not be admissible as evidence in criminal proceedings against the bank or any of its employees, except –
- (a) in proceedings for an offence under paragraph (7) or for contempt of court;
 - (b) in proceedings for or in respect of a confiscation order; or
 - (c) subject to paragraph (11), where in any prosecution, in evidence given on the part of the person a statement is made which is inconsistent with the relevant information given pursuant to the disclosure order.
- (11) A statement may not be used as evidence against a person by virtue of paragraph (10)(c) unless evidence relating to it is adduced, or a question relating to it is asked, by or on behalf of the person in the proceedings arising out of the prosecution.

25 Copying and retention of documents

- (1) The Attorney General and any other person authorized for the purpose by a production order, a search warrant or a disclosure order may take copies of any documents which are produced, or to which access is given, in compliance with a requirement in the order or warrant (as the case may be).
- (2) Original documents so produced may be retained for so long as it is necessary to retain them in connection with the civil forfeiture investigation for the purposes of which the order was made or the warrant was given.

- (3) Notwithstanding paragraph (2), if the Attorney General has reasonable grounds for believing that a document –
- (a) may need to be produced for the purposes of any legal proceedings; and
 - (b) might otherwise be unavailable for those purposes,
- the document may be retained until the proceedings are concluded.

Consultation Question 21:

Do respondents consider that the provisions relating to account monitoring orders, disclosure orders and copy and retention of documents are appropriate?

PART 5

GENERAL PROVISIONS

26 Nature of proceedings, and rules of court

- (1) Proceedings under –
 - (a) Parts 2 to 4 of this Law (except under Article 22(6), 23(7) or 24(7)); and
 - (b) Article 27are civil proceedings and any issue in such proceedings shall be determined on the balance of probabilities.
- (2) The power to make Rules of Court under the Royal Court (Jersey) Law 1948 shall include a power to make Rules for the purposes of this Law and proceedings under this Law.

27 Release of restrained etc. property

- (1) A person who claims that any property (other than cash) detained, seized or otherwise restrained under this Law (including, for the purposes of this Article, any part of such property) lawfully belongs to him or her may apply for that property to be released to him or her.
- (2) The application may be made in the course of proceedings under Part 3 or 4 or at any other time before the property in question is forfeited pursuant to a forfeiture order.
- (3) An application in the course of proceedings under Article 11 or 12 may be made to the Bailiff or to the Court, and where such an application is made to the Bailiff the Bailiff may rule upon the application or may, at the Bailiff's discretion, refer it to the Court for adjudication.

- (4) An application made otherwise than in the course of proceedings under Article 11 or 12 shall be made to the Court.
- (5) If it appears to the Bailiff or Court that –
 - (a) the property lawfully belongs to the applicant;
 - (b) the applicant was deprived of the property by unlawful conduct; and
 - (c) immediately before the applicant was deprived of it, the property –
 - (i) was not property obtained by or in return for unlawful conduct, and
 - (ii) did not represent cash or property so obtained,

the Bailiff or Court may order the property to be released to the applicant (and, where the application is made in the course of proceedings under Article 11 or 15, shall do so instead of making a forfeiture order).

Consultation Question 22:

Do respondents consider that the provisions for release of restrained property in Article 27 are appropriate?

28 Limitation of liability of Viscount

Where the Viscount –

- (a) takes any action in relation to property that is not tainted property, being action that the Viscount would be entitled to take if it were such property; and
- (b) believes and has reasonable grounds for believing that such action may lawfully be taken,

the Viscount shall not be liable to any person in respect of any loss or damage sustained resulting from the action taken, unless it is shown that the action was done in bad faith.

29 Limitation of liability of Attorney General

- (1) Paragraph (2) applies to –
 - (a) the Attorney General; and
 - (b) a person who is or has been or is acting or has acted as, an officer, employee or agent of the Attorney General.
- (2) A person to whom this paragraph applies is not liable in damages for any act done in the discharge, or purported discharge, of the functions of the Attorney General under this Law or any other enactment.
- (3) Paragraph (2) does not apply –

- (a) if it is shown that the act was done in bad faith; or
 - (b) so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.
- (4) The Attorney General shall not be liable in costs for any proceedings under this Law, except where it is shown that the proceedings were commenced, or (having been lawfully commenced) were continued, in bad faith.

Consultation Question 23:

Do respondents consider that the limitation of liability provision in Article 28 and 29 applying to the Viscount and the Attorney General are appropriate?

30 Compensation where bad faith proven

- (1) Where it is shown that any act done –
- (a) in the discharge, or purported discharge, of the functions of the Viscount or the Attorney General under this Law;
 - (b) in respect of any property restrained, seized or otherwise detained under this Law,
- was done in bad faith, the person to whom the property belongs may make an application to the Court for compensation.
- (2) The Court may, after receiving an application under paragraph (1), order compensation to be paid to the applicant if –
- (a) the Court is satisfied that the person has suffered loss as a result of the detention of the property under this Law; and
 - (b) having regard to all the circumstances the Court considers it appropriate to make such an order.
- (3) The amount of compensation which the Court may order to be paid under this Article shall be the amount the Court thinks reasonable having regard to –
- (a) the loss suffered;
 - (b) the amount of any interest already paid under this Law; and
 - (c) any other relevant circumstances.
- (4) Compensation ordered to be paid under this Article shall be paid out of the consolidated fund.
- (5) If a forfeiture order is made in respect only of a part of property detained under this Law, this Article has effect in relation to the other part of that property.

- (6) A person to whom cash detained under Article 6 or 7 belongs may not make an application under this Article if an order for the release of all or part of the cash has been made under Article 9.

31 Offence of obstruction

A person who, without reasonable excuse, obstructs the Attorney General, the Viscount or an authorized officer in the lawful exercise of powers conferred by this Law shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

32 Offence of tipping off or interference with documents etc.

- (1) Where a person knows or suspects that the Attorney General or an authorized officer is acting or proposing to act in connection with a civil forfeiture investigation that is being or is about to be conducted, it is an offence for the person –
- (a) to disclose to another person any information relating to the investigation; or
 - (b) to interfere with material which is likely to be relevant to the investigation.
- (2) For the purposes of this Article, interference with material includes falsifying, concealing, destroying or disposing of the material or part of it.
- (3) Paragraph (1)(a) does not apply to a disclosure which –
- (a) is made by a professional legal adviser –
 - (i) to a client, or to the client's representative, in connection with the provision of legal advice to the client, or
 - (ii) to any person for the purpose of actual or contemplated legal proceedings;
 - (b) is made by a person who is the client of a professional legal adviser to that adviser, for either of the purposes mentioned in subparagraph (a)(i) or (ii); or
 - (c) is made by a person who is the client of an accountant for the purpose of enabling him or her to provide any of the services listed in paragraph 2(1) of Part B of Schedule 2 to the Proceeds of Crime (Jersey) Law 1999.
- (4) The States may by Regulations specify further cases in which a disclosure or interference to which paragraph (1) would otherwise apply shall not amount to the commission of an offence.
- (5) A person shall not be guilty of an offence under this Article in respect of anything done by the person in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Law or of any other enactment relating to criminal conduct or the proceeds of criminal conduct.
- (6) A person guilty of an offence under this Article is liable to imprisonment for a term of 5 years and to a fine.

- (7) A prosecution for an offence under this Article may only be made with the consent of the Attorney General.

Consultation Question 24:

Do respondents consider that the Tipping off provisions included in Article 32 Law are appropriate?

33 Liability of directors etc.

- (1) Where an offence under this Law is committed by a limited liability partnership, a separate limited partnership, any other partnership having separate legal personality or a body corporate is proved to have been committed with the consent or connivance of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,
- the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for the offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to acts and defaults of a member in connection with the member's functions of management as if he or she were a director of the body corporate.

34 Consent to settlement

- (1) On an application made by the Attorney General for the purpose, and if the condition in paragraph (2) is fulfilled, the Court may make an order in any proceedings under Article 11, 12 or 15, on terms agreed between the Attorney General and other parties to the proceedings, for the disposal of the proceedings.
- (2) The condition mentioned in paragraph (1) is that each person to whose property the proceedings and the agreement relate is a party both to the proceedings and to the agreement.
- (3) An order under paragraph (1) may —
- (a) in particular, and without derogation from the Court's discretion make provision for any property –
 - (i) which may be liable to forfeiture under this Law, to cease to be so liable, or
 - (ii) to be returned to a person to whom it belongs; and
 - (b) make such further provision as the Court may think fit.

Consultation Question 25:

Do respondents consider that it is appropriate for the Attorney General to make an agreement with all parties whose property is subject to the proceedings to effectively dispose of the proceedings?

35 Civil Asset Recovery (International Co-operation) (Jersey) Law amended

In the Civil Asset Recovery (International Co-operation) (Jersey) Law 2007, for the definition “property” there shall be substituted the following definition –

“ “property” means all property, whether vested or contingent, and whether in Jersey or elsewhere, including –

- (a) any legal document or instrument evidencing title to or interest in immovable property;
- (b) any interest in or power in respect of immovable property;
- (c) in relation to movable property, any right, including a right to possession;”.

36 Repeal, and saving

- (1) The Proceeds of Crime (Cash Seizure) (Jersey) Law 2008 (the “Cash Seizure Law”) is repealed.
- (2) Any proceedings –
 - (a) arising from a seizure of cash under Article 4 of the Cash Seizure Law; and
 - (b) initiated before the commencement of this Law,shall proceed under the Cash Seizure Law as if it were not repealed by paragraph (1).

37 Citation and commencement

This Law may be cited as the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 201– and shall come into force one month after the day on which it is registered.

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