

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* G.S.I. No. 36 of 2007; as amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2008 (G.S.I. No. 27 of 2008); the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2010 (G.S.I. No. 49 of 2010); the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2011 (G.S.I. No. 24 of 2011); the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2014 (G.S.I. No. 51 of 2014). See also the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207).

The Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007

ARRANGEMENT OF REGULATIONS

1. Form and manner of disclosure.
2. Request for additional information.
- 2A. Request for additional information from third parties.
3. Offence of failure to provide additional information.
4. Defence.
5. Interpretation.
6. Citation and commencement.

SCHEDULE Form of Disclosure.

Explanatory Note.

The Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007

THE HOME DEPARTMENT, in exercise of the powers conferred on it by section 15C of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^a and all other powers enabling it in that behalf, hereby makes the following Regulations: –

[Form and manner of disclosure.]

1. (1) Save when paragraph (2) applies, a person shall make a disclosure to a prescribed police officer under section 12, 15 or 15C of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (the "**Law of 2002**") by using the online reporting facility available on the website of the Financial Investigation Unit.

(2) Subject to the consent of an authorised officer, a person may make a disclosure to a prescribed police officer under section 12, 15 or 15C of the Law of 2002 –

(a) by using the form set out in the Schedule to these Regulations ("**the Form**"), and

(b) in compliance with the requirements indicated upon the Form.

(3) A completed Form, together with any accompanying information shall be –

^a Order in Council No. XVI of 2002 and No. XIII of 2006 and as amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007.

- (a) delivered by post, or hand, to the addressee,
- (b) transmitted by electronic mail to the electronic address, or
- (c) sent by facsimile transmission to the telephone number, indicated upon the Form.]

NOTE

Regulation 1 was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2011, regulation 2, with effect from 15th June, 2011.¹

Request for additional information.

2. (1) A [prescribed police officer] may, by notice in writing served upon any person who has made a disclosure under section 12, 15 or [15A] of the Law of 2002 ('**the initial disclosure**'), require that person to provide the officer (or any other specified officer) with such additional information relating to the initial disclosure as may be specified –

- (a) within such period which, subject to paragraph (3), shall not be less than 7 days, and
- (b) in such form and manner, as may be specified.

(2) A [prescribed police officer] may by written notice extend the period specified under paragraph (1)(a) for such period of time as he may specify in writing.

(3) Where a relevant officer is satisfied that the provision of additional information is reasonably required as a matter of urgency he may, for the purposes of paragraph (1)(a) –

- (a) specify, or
- (b) authorise any [prescribed police officer] to specify,

such reasonable period of less than 7 days within which the information must be provided, as he thinks fit.

(4) For the purposes of paragraph (3), "**a relevant officer**" means –

- (a) a member of the salaried police force of the Island of Guernsey who holds the rank of inspector or above,
- (b) a member of any police force which may be established by the States of Alderney who holds the rank of inspector or above, or
- (c) a customs officer of the grade of senior investigation officer or above.

NOTES

In regulation 2,

the words in, first, the first pairs of square brackets in paragraph (1) and paragraph (2) of Regulation 2 and, second, square brackets in

paragraph (3)(b) thereof were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2010, respectively regulation 2 and regulation 3, with effect from 17th May, 2010;

the figures and letter in the second pair of square brackets in paragraph (1) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2008, regulation 1, with effect from 19th May, 2008.

In accordance with the provisions of the Police Force (Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

Request for additional information from third parties.

2A. (1) This regulation applies where –

- (a) a person has made a disclosure to a prescribed police officer under section 12, 15 or 15C of the Law of 2002 (**'the initial disclosure'**), and
- (b) on the basis of the initial disclosure, the officer has reasonable cause to believe that another person (**'a third party'**) possesses relevant information.

(2) A prescribed police officer may, by notice in writing served upon a third party, require that third party to provide the officer (or any other specified officer) with such additional information relating to the initial disclosure as may be specified –

- (a) within such period which, subject to paragraph (4), shall not be less than 7 days, and

- (b) in such form and manner,

as may be specified.

(3) A prescribed police officer may by written notice extend the period specified under paragraph (2)(a) for such period of time as he may specify in writing.

(4) Where a relevant officer is satisfied that the provision of additional information is reasonably required as a matter of urgency he may, for the purposes of paragraph (2)(a) –

- (a) specify, or
- (b) authorise any prescribed police officer to specify,

such reasonable period of less than 7 days within which the information must be provided, as he thinks fit.

(5) For the purposes of this regulation –

'relevant information' means information which is, or is likely to be, of assistance to any enquiries that a prescribed police officer reasonably believes to be necessary in order to establish –

- (a) whether any person is engaged in terrorist financing,
or
- (b) that certain property is or is derived from terrorist property, and

"a relevant officer" has the same meaning as it has for the purposes of regulation 2(3).]

NOTE

Regulation 2A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2014, regulation 2, with effect from 7th August, 2014.

Offence of failure to provide additional information.

3. (1) Subject to regulation 4, a person who fails to provide additional information which he is required to provide under a notice given under regulation 2 [or 2A] –

- (a) within the period specified, and
- (b) in the form and manner specified, is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable –

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale or to both, or
- (b) on conviction or indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

NOTE

In regulation 3, the word, figure and letter in square brackets were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2014, regulation 3, with effect from 7th August, 2014.

Defence.

4. (1) A person does not commit an offence under regulation 3 if –
- (a) he has a reasonable excuse for not disclosing the additional information or other matter, or
 - (b) he is a professional legal adviser and the additional information came to him in privileged circumstances.
- (2) Information comes to a professional legal adviser in privileged circumstances if it is communicated or given to him –
- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
 - (b) by (or by a representative of) a person seeking legal advice from the adviser, or
 - (c) by a person in connection with legal proceedings or contemplated legal proceedings.
- (3) But paragraph (2) does not apply to information which is communicated or given with a view to furthering a criminal purpose.

Interpretation.

5. (1) In these Regulations, unless the context requires otherwise –

["**authorised officer**"] means the head of the Financial Investigation Unit or other member of the Financial Investigation Unit of the rank of Senior Investigation Officer or above,]

["**Financial Intelligence Service**"] means the division of the Financial Investigation Unit, comprising those police officers and other persons assigned to the division for the purpose of the receipt, analysis and dissemination within the Bailiwick, and elsewhere, of disclosures which are more commonly known or referred to as suspicious transaction reports or suspicious activity reports,]

["**Financial Investigation Unit**"] means that branch of the Customs and Immigration Service responsible for the investigation of financial and economic crime,]

"**the Form**" means the form set out in the Schedule to these Regulations,

"**Law of 2002**" means the Terrorism and Crime (Bailiwick of Guernsey) Law, [2007],

["**prescribed police officer**"] means a police officer who is a member of the Financial Intelligence Service,]

"**specified**" means specified in writing,

and other expressions have the same meanings as in the Law of 2002.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

NOTE

In regulation 5,

the definition of the expression "authorised officer" was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2011, regulation 3, with effect from 15th June, 2011;

the definitions of the expressions, first, "Financial Intelligence Service", second, "Financial Investigation Unit" and, third, "prescribed police officer" were, respectively, substituted, inserted and inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2010, regulation 4(a), regulation 4(b) and regulation 4(c), with effect from 17th May, 2010.

The date in square brackets in the definition of the expression "the Law of 2002" shown, incorrectly, in the printed version of this regulation as "2007" should read "2002".

Citation and commencement.

6. These Regulations may be cited as the Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007 and shall come into force on the 17th December, 2007.

^b Ordres en Conseil Vol. XIII, p. 355.

[SCHEDULE
FORM OF DISCLOSURE

Regulations 1 and 5

DISCLOSURE FORM
STRICTLY PRIVATE AND CONFIDENTIAL

Please forward with covering letter to:	
The Guernsey Border Agency, Financial Investigation Unit: Financial Intelligence Service, Ozanne Hall, Mignot Plateau, Cornet Street, St Peter Port, GY1 1LF	
Tel: 714081	Fax: 710466 E-mail: fiu@gba.gov.gg (not secure)
Reporting MLRO:	
Tel.:	E-mail:

Your reference		
FIS reference		
Date		Consent request? Yes/No

1. MAIN DISCLOSURE SUBJECT

Person

Title	
Full name (<i>please include</i>	

Consolidated text

<i>former and other names)</i>	
Is the subject a Politically Exposed Person? (<i>please give details</i>)	
Gender	
Date of birth/Alias date of Birth	
Estimated age	
Place of Birth	
Town of Birth	
Nationality(ies)	
Occupation	
Employer	
Address(es) including postal codes	
Country of Residence	
Contact details, e.g. telephone, fax, email	
Passport number(s) and dates	
Passport issuing country(ies)	
Other identification numbers and dates, e.g. national identity card, driving licence etc. <i>(please specify type)</i>	
Any other relevant information	

and/or Organisation

Type of Organisation i.e. company, trust, non-profit	
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Consolidated text

organisation or other	
Name (<i>please include former and other names</i>)	
Legal registration/ identification number	
Address(es) including postal codes	
Contact details, e.g. telephone, fax, email	
Place of incorporation/date	
Country registered/established	
Date registered/established	
Any other relevant information	
<i>(Trust)</i> Country of Administration Country Settled	
<i>(non-profit organisation)</i> Area of Benefit Area of Operation	

2. ASSOCIATED SUBJECTS (including organisation officials)

Official Type	
Title	
Full name (<i>please include former and other names</i>)	
Date of birth	
Address(es) including postal codes	

For further associated subjects, please copy the formats used above.

3. RELEVANT ACCOUNTS

Account Name	
Account Holder(s)	
Financial Institution/ SWIFT/BIC address	
Account/product type, e.g. investment, company etc.	
Account number and sort code	
Date account opened	
Date account closed	
Account balance/value	
Balance/value date	

For additional accounts or products, please copy the format used above

4. RELEVANT TRANSACTIONS

Please note that the obligation to report suspicion applies to all types of transaction and attempted transaction, including attempted transactions in circumstances where there is no existing business relationship with the disclosure subject and no such business relationship is subsequently established.

Transaction date	
Transaction amount	
Transaction type/method	
Transaction parties (<i>please use person/organisation format as above where more detailed</i>)	

<i>information is available)</i>	
Was the transaction carried out?	
Was the transaction made in the context of an existing business relationship? If not, was a business relationship then established?	

For additional transactions, please copy the format used above

5. CLIENT RELATIONSHIP

Current status of relationship	
Date relationship commenced	
Date relationship ended	

6. REASONS FOR SUSPICION

Please give full account of circumstances and grounds for suspicion

Suspected Underlying Offences	<i>Please specify where possible the nature of the offences which you suspect may underlie or otherwise be relevant to the transaction, for example fraud or corruption, (whether carried out or not), together with the grounds for that suspicion.</i>
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This disclosure is made under the (please delete as appropriate)	Terrorism and Crime (Bailiwick of Guernsey) Law, 2002
	Disclosure (Bailiwick of Guernsey) Law, 2007

7. DETAILS OF ANY REQUEST FOR CONSENT

Please specify the act or transaction for which consent is sought

8. ADDITIONAL INFORMATION (including explanation of any attachments)

NB - Please also provide as much information and documentation as possible to demonstrate why suspicion has been raised and to enable the FIS to fully understand the purpose and intended nature of the business relationship, e.g. copy identification and account opening documents, account statements, contract notes, minutes, correspondence, structure charts, transcripts, etc.]

NOTE

The Schedule was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2014, regulation 4, with effect from 7th August, 2014.²

EXPLANATORY NOTE

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

These Regulations prescribe the form and manner in which a disclosure under the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 must be made. Regulation 2 provides for the circumstances in which a police officer may require a person to provide additional information relating to a disclosure. Regulation 3 makes it an offence to fail to provide any additional information, which has been requested under the regulations, within the period and in the form specified by a police officer. Regulation 4 provides that no offence is committed where a person has a reasonable excuse for not disclosing the information or the person is a professional legal adviser and the information came to him in privileged circumstances.

These Regulations come into force on 17 December, 2007.

¹ Prior to its substitution, regulation 1 was amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2008, regulation 1, with effect from 19th May, 2008; the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2010, regulation 2, with effect from 17th May, 2010.

² Prior to its substitution, the Schedule was amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2010, regulation 5, with effect from 17th May, 2010; and substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2011, regulation 4, with effect from 15th June, 2011.

** The text of this Explanatory Note is as it was when the Statutory Instrument was first made – that is to say that the Explanatory Note has not been updated to take account of any changes made by subsequent amending Statutory Instruments with their own Explanatory Notes.