



Jersey

PROCEEDS OF CRIME (JERSEY) LAW 1999

Official Consolidated Version

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PROCEEDS OF CRIME (JERSEY) LAW 1999

Contents

Article

PART 1	6
INTRODUCTORY	6
1 Interpretation	6
2 Meanings of expressions relating to realisable property	10
PART 2	13
CONFISCATION ORDERS AND INSTRUMENTALITIES FORFEITURE ORDERS	13
3 Confiscation orders.....	13
4 Amount to be recovered under confiscation order	14
5 Confiscation order relating to a course of relevant criminal conduct	15
6 Postponed determinations.....	16
7 Statements relating to criminal offences	17
8 Provision of information by defendant	19
9 Powers of the Court where defendant has died or absconded	20
10 Effect of confiscation order or instrumentalities forfeiture order on sentencing of absconder	20
11 Enforcement of confiscation orders and instrumentalities forfeiture orders	21
12 Reconsideration of case where Court has not considered a confiscation order	22
13 Reconsideration of determination that defendant has not benefited	23
14 Revised assessment of benefit already determined	24
15 Cases in which <i>saisies judiciaires</i> may be made	25
16 <i>Saisies judiciaires</i>	27
17 Realisation of property	28
18 Interest on sums unpaid under confiscation orders or instrumentalities forfeiture orders.....	28
19 Increase in realisable property	29
20 Application of proceeds of realisation and other sums	29
21 Variation of confiscation order or instrumentalities forfeiture order where realisable property is inadequate	30
22 Bankruptcy of defendant.....	30
23 Limitation of liability of Viscount.....	31
24 Criminal Offences Confiscations Fund.....	31

25	Compensation where defendant not convicted	32
26	Cancellation of confiscation order or instrumentalities forfeiture order, and compensation, where absconder acquitted	33
27	Cancellation of confiscation order or instrumentalities forfeiture order, and compensation, where absconder returns	33
28	Variation of confiscation order or instrumentalities forfeiture order, and compensation, where absconder returns	34
28A	Enforcement of confiscation orders or instrumentalities forfeiture orders in a country or territory outside Jersey	35
28B	Instrumentalities forfeiture orders	36
PART 3		38
MONEY LAUNDERING		38
29	Criminal property.....	38
30	Offences of dealing with criminal property.....	38
31	Concealment etc. of criminal property	39
32	Protection for disclosures, and defence of intended disclosure.....	40
33	Restrictions on further disclosure	41
34	Further disclosure permitted for certain purposes.....	41
34A	Failure to disclose knowledge or suspicion of money laundering	42
34B	Statutory defences	42
34C	Cases to which Article 34A does not apply	43
34D	Failure in a financial institution to report to the FIU or nominated officer	43
34E	45
35	Tipping off and interference with material	45
35A	Failure to prevent money laundering.....	46
36	Financial services business	47
37	Procedures to prevent and detect money laundering	48
PART 4		49
EXTERNAL CONFISCATION ORDERS		49
38	Recognition of external confiscation orders	49
39	Registration of external confiscation orders	50
PART 5		50
MISCELLANEOUS		50
39A	Offences by bodies corporate and others	50
40	Investigations relating to proceeds of criminal conduct or instrumentalities	51
41	Authority for search.....	53
41A	Financial information and monitoring.....	54
41B	Financial intelligence gathering etc.....	55
42	55
42A	Regulations	55
43	Orders	55
44	Rules of Court	56
44A	Consequential and transitional provisions in connection with commencement of Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022.....	56

45	Citation	56
SCHEDULE 1		57
OFFENCES FOR WHICH CONFISCATION ORDERS OR INSTRUMENTALITIES FORFEITURE ORDERS MAY BE MADE		57
SCHEDULE 2		58
FINANCIAL SERVICES BUSINESS		58
PART 1		58
PRELIMINARY		58
1	Interpretation	58
PART 2		58
FINANCIAL INSTITUTIONS		58
2	Acceptance of deposits and other repayable funds from public	58
3	Lending	59
4	Financial leasing.....	59
5	Money or value transfer services	59
6	Means of payment.....	59
7	Financial guarantees and commitments	59
8	Trading.....	59
9	Fund and security services activities	60
10	Advice on capital structure, industrial strategy etc.	60
11	Portfolio management	60
12	Safe keeping and administration.....	60
13	Safe custody services.....	61
14	Investing, administering or managing funds or money	61
15	Underwriting and placement of life assurance and insurance	61
16	Money and currency.....	61
17	Money broking	61
PART 3		61
DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS		61
18	Casinos.....	61
19	Real estate agents	62
20	High value dealers	62
21	Lawyers, etc.....	62
22	Accountants.....	63
23	Trust and company service providers	64
PART 4		66
VIRTUAL ASSET SERVICE PROVIDER		66
24	Virtual asset service provider	66
PART 5		67
EXPRESS TRUSTS		67
25	Express trusts.....	67

SCHEDULE 3	68
<hr/>	
FINANCIAL INFORMATION AND MONITORING ORDERS	68
PART 1	68
ORDERS FOR PROVISION OF FINANCIAL INFORMATION	68
1 Order to provide customer information	68
2 Who may apply for order	69
3 Who may make order	69
4 Consent required for application	69
5 Criteria for making order	69
6 Customer information	69
7 Self-incrimination	70
PART 2	70
ACCOUNT MONITORING ORDERS	70
1 Account monitoring orders	70
2 Applications	71
3 Discharge or variation.....	71
4 Effect of orders	72
5 Statements.....	72
ENDNOTES	73
<hr/>	
Table of Legislation History.....	73
Table of Renumbered Provisions	75
Table of Endnote References	75



Jersey

PROCEEDS OF CRIME (JERSEY) LAW 1999¹

A **LAW** to provide for the confiscation and forfeiture of the proceeds of crime, to establish new offences of money laundering and new procedures to forestall, prevent and detect money laundering, and to enable the enforcement in Jersey of overseas confiscation orders, and for connected purposes²

Commencement [[see endnotes](#)]

PART 1

INTRODUCTORY

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“anti-money laundering services provider” means a person appointed as such under an Order made under Article 37;

“beneficiary” has the meaning given by Article 1(1) of the [Trusts \(Jersey\) Law 1984](#)

“cannabis” means any plant of the genus *Cannabis* and any part of such plant;

“Commission” and “Financial Services Commission” mean the Jersey Financial Services Commission established by Article 2 of the [Financial Services Commission \(Jersey\) Law 1998](#);

“competent authority” means a competent authority for the purposes of Article 3(3) of the [Investigation of Fraud \(Jersey\) Law 1991](#);

“confiscation order” means an order made under Article 3, and also means any order under that Article that is made by virtue of Article 9, 12 or 13;

“Court” means the Royal Court;

“criminal conduct” means conduct, whether occurring before or after Article 3 comes into force, that –

(a) constitutes an offence specified in Schedule 1; or

- (b) if it occurs or has occurred outside Jersey, would have constituted such an offence if occurring in Jersey,

but does not include the production, supply, use, export or import of cannabis or any of its derivatives that –

- (i) is lawful where and when it occurs, and
- (ii) occurs in a jurisdiction outside Jersey that the Minister for External Relations may by Order specify;

“criminal investigation” means an investigation which police officers or other persons have a duty to conduct for the purpose of ascertaining whether a person should be charged with an offence specified in Schedule 1 or, in a jurisdiction outside Jersey, with an equivalent offence;

“Criminal Offences Confiscations Fund” and “Fund” mean the Criminal Offences Confiscations Fund established under Article 24;

“defendant” means a person against whom proceedings have been instituted for an offence specified in Schedule 1 (whether or not he or she has been convicted);

“drug trafficking” has the same meaning as is given to that expression by Article 1(1) of the [Misuse of Drugs \(Jersey\) Law 1978](#);

“exported”, in relation to any money, includes its being brought to any place in Jersey for the purpose of being exported;

“external confiscation order” means an order made by a court in a country or territory outside Jersey –

- (a) for the purpose of recovering property obtained as a result of or in connection with conduct corresponding to an offence specified in Schedule 1;
- (b) for the purpose of recovering the value of the property so obtained; or
- (c) for the purpose of depriving a person of a pecuniary advantage so obtained;
- (d) for the purpose of recovering property used or intended to be used in such conduct or in predicate conduct outside Jersey, or property of equivalent value to such property;

“financial services business” means a business specified, or of a description specified, in Schedule 2;

“FIU” means the body for the time being designated by Regulations made under Article 41B as the financial intelligence unit for Jersey;

“gift caught by Part 2” and “gift caught by this Part” have the meaning given in Article 2(9);

“instrumentalities” means property used in or intended to be used in criminal conduct;

“instrumentalities forfeiture order” means an order made under Article 28B (including any order under that Article that is made by virtue of Article 9);

“interest”, in relation to property, includes right;

“investigation”, in relation to crime, includes the prevention of crime and also includes the detection of crime;

“limited liability company” means a limited liability company registered under the [Limited Liability Companies \(Jersey\) Law 2018](#);

“LLC interest” and “LLC agreement” have the same meaning as in the [Limited Liability Companies \(Jersey\) Law 2018](#);

“making a gift” has the meaning given in Article 2(10);

“modifications” includes additions, alterations and omissions;

“money” means cash (that is to say, coins or notes in any currency) or any negotiable instrument;

“money laundering” means –

- (a) conduct which is an offence under any provision of Articles 30 and 31 of this Law or of Articles 15 and 16 of the [Terrorism \(Jersey\) Law 2002](#); or
- (b) conduct outside Jersey which, if occurring in Jersey, would be an offence specified in sub-paragraph (a);

“police officer” means a member of the Honorary Police, a member of the States of Jersey Police Force, the Agent of the Impôts or any other officer of the Impôts;

“predicate conduct” means the conduct alleged by the Attorney General to be the criminal conduct which makes property criminal property, where the Attorney General is alleging an offence under Article 30 or 31 or an attempt or conspiracy to commit such an offence;

“proceeds of criminal conduct”, in relation to any person who has benefited from criminal conduct, means that benefit;

“production” has the same meaning as is given to that expression by Article 1(1) of the [Misuse of Drugs \(Jersey\) Law 1978](#);

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

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

and for the avoidance of doubt, a reference in this Law to property being obtained by a person includes a reference to any interest in that property being obtained;

“realisable property” has the meaning given in Article 2(1) and (2);

“*saisie judiciaire*” means an order to which Article 16(1) refers;

“supply” is construed in accordance with the meaning given to “supplying” by Article 1(1) of the [Misuse of Drugs \(Jersey\) Law 1978](#);

“trust” has the meaning given by Article 1(1) of the [Trusts \(Jersey\) Law 1984](#);

“trust property” means the property for the time being held in a Jersey trust as defined by Article 1(1) of the [Trusts \(Jersey\) Law 1984](#) or a foreign trust as defined by that Article;

“value of a gift” has the meaning given in Article 2(7) and (8);

“value of property” has the meaning given in Article 2(4), (5) and (6).³

- (2) For the purposes of this Law –
- (a) references to property obtained, or to a pecuniary advantage derived, in connection with the commission of an offence or with criminal conduct include a reference to property obtained or to a pecuniary advantage derived both in that connection and in some other connection; and
 - (b) where a person derives a pecuniary advantage as a result of or in connection with the commission of an offence or with criminal conduct, the person is to be treated as if the person had obtained as a result of or in connection with the commission of that offence, or that conduct, a sum of money equal to the value of the pecuniary advantage.
- (2A) For the purposes of this Law –
- (a) a person benefits from any criminal conduct if that person obtains property as a result of or in connection with the conduct; and
 - (b) in particular, but without derogation from sub-paragraph (a), a person benefits from criminal conduct if the person receives any payment or other reward in connection with such conduct, whether carried on by that person or by another.⁴
- (2B) For the purposes of Part 2, “relevant criminal conduct”, in relation to a defendant, means the offences for which the defendant appears to be sentenced, together with any other offences which the Court may take into consideration in sentencing the defendant.⁵
- (3) For the purposes of Part 2, proceedings for an offence are instituted in Jersey –
- (a) when the Bailiff issues a warrant in respect of the offence for the arrest of a person who is out of Jersey;
 - (b) when a person is arrested and charged with the offence;
 - (ba) when proceedings are initiated in respect of the offence under Article 14(1A) of the [Criminal Procedure \(Jersey\) Law 2018](#); or
 - (c) when a summons in respect of the offence is served on a person by or with the approval of the Attorney General,
 - (d)
- and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.⁶
- (4) For the purposes of Part 2, proceedings in Jersey for an offence are concluded –
- (a) when the defendant is acquitted of that offence and of all other counts (if any) on which the defendant is also tried at the same time;
 - (b) if the defendant is convicted on one or more counts but the Court decides not to make a confiscation order or an instrumentalities forfeiture order against the defendant, when it makes that decision; or
 - (c) if a confiscation order or an instrumentalities forfeiture order is made against the defendant, when all the orders are satisfied.⁷
- (5) An application under Article 9, 12 or 13 is concluded –

- (a) if the Court decides not to make a confiscation order or, in the case of Article 9, an instrumentalities forfeiture order against the defendant, when it makes that decision; or
 - (b) if a confiscation order or, in the case of Article 9, an instrumentalities forfeiture order is made against the defendant as a result of that application, when the order is satisfied.⁸
- (6) An application under Article 14 or 19 is concluded –
- (a) if the Court decides not to vary the confiscation order in question, when it makes that decision; or
 - (b) if it varies the confiscation order as a result of the application, when the order is satisfied.
- (6A) An application under Article 28B(6) is concluded –
- (a) if the Court decides not to make or vary the instrumentalities forfeiture order, when it makes that decision; or
 - (b) if the Court makes or varies the instrumentalities forfeiture order as a result of the application, when the order is satisfied.⁹
- (7) For the purposes of Part 2, a confiscation order or an instrumentalities forfeiture order is satisfied when no amount is due under it.¹⁰
- (8) For the purposes of Part 2, an order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.
- (9) The States may amend paragraph (1) by Regulations.¹¹

2 Meanings of expressions relating to realisable property

- (1) In Part 2, “realisable property” means –
- (a) any property held by the defendant;
 - (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by Part 2; and
 - (c) any property to which the defendant is beneficially entitled.
- (1A) Where the Attorney General makes or intends to make an application for an instrumentalities forfeiture order under Article 28B, but only for the purposes of the proceedings as they relate to the instrumentalities forfeiture order, “realisable property” also includes –
- (a) before any instrumentalities forfeiture order is made, any property suspected to be –
 - (i) property used in or intended to be used in the relevant offence or in predicate conduct that occurred in Jersey, or
 - (ii) property into which such property has been converted (whether in a single, in multiple or in a series of consecutive transactions); or
 - (b) after any instrumentalities forfeiture order has been made, any property that has been found by the Court to be –

- (i) property used in or intended to be used in the relevant offence or in predicate conduct that occurred in Jersey, or
 - (ii) property into which such property has been converted (whether in a single, in multiple or in a series of consecutive transactions).¹²
- (2) However, property is not realisable property if an order under Article 29 of the [Misuse of Drugs \(Jersey\) Law 1978](#), Article 27 of the [Terrorism \(Jersey\) Law 2002](#) or Article 15 of the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#) is in force in respect of the property.¹³
- (3) For the purposes of Part 2 and subject to Article 28B(5)(b) where it applies, the amount that might be realised at the time a confiscation order is made is the total of the values at that time of all the realisable property, including –
 - (a) the total value of any property to which the defendant is beneficially entitled, less –
 - (i) any amount due in respect of a fine or other order of the Court or the Court of Appeal or the Magistrate’s Court or the Youth Court, imposed or made on conviction for an offence, where the fine was imposed or the order was made before the making of the confiscation order,
 - (ii) any sum in respect of which the person to whom it is due would, if the defendant had become bankrupt before the making of the confiscation order, be entitled to claim preference (“*préférence*”) or privilege (“*privilège*”), as the case may be,
 - (iii) any sum the payment of which is secured on all or any of the realisable property by a simple conventional hypothec or a judicial hypothec created in accordance with the Loi (1880) sur la Propriété Foncière before the making of the confiscation order, and
 - (iv) any sum the payment of which is secured on all or any of the realisable property by a security interest created before the making of the confiscation order, being a continuing security interest to which, as referred to in Article 1A of the [Security Interests \(Jersey\) Law 1983](#), that Law applies or a security interest within the meaning of the [Security Interests \(Jersey\) Law 2012](#); and
 - (b) the total of the values at that time of all gifts caught by Part 2.¹⁴
- (4) Subject to the following provisions of this Article, for the purposes of Part 2 the value of property (other than cash) in relation to any person holding the property means the market value of the property.
- (5) References in Part 2 to the value at any time (referred to in paragraph (6) as the “material time”) of any property obtained by a person as a result of or in connection with an offence are references to –
 - (a) the value of the property to the person when the person obtained it, adjusted to take account of subsequent changes in the value of money; or
 - (b) where paragraph (6) applies, the value there mentioned, whichever is greater.
- (6) If at the material time the person holds –
 - (a) the property that the person obtained (not being cash); or

- (b) property that, in whole or in part, directly or indirectly represents in the person's hands the property that the person obtained,

the value referred to in paragraph (5)(b) is the value to the person at the material time of the property mentioned in sub-paragraph (a) of this paragraph or (as the case may be) the property mentioned in sub-paragraph (b) of this paragraph so far as it so represents the property that the person obtained.

- (7) Subject to paragraph (10), references in Part 2 to the value at any time (referred to in paragraph (8) as the "material time") of a gift caught by Part 2 are references to –

- (a) the value of the gift to the recipient when he or she received it, adjusted to take account of subsequent changes in the value of money; or

- (b) where paragraph (8) applies, the value there mentioned,
whichever is greater.

- (8) Subject to paragraph (10), if at the material time the person holds –

- (a) the property that he or she received (not being cash); or

- (b) property that, in whole or in part, directly or indirectly represents in his or her hands the property that he or she received,

the value referred to in paragraph (7)(b) is the value to him or her at the material time of the property mentioned in sub-paragraph (a) of this paragraph or (as the case may be) sub-paragraph (b) of this paragraph so far as it so represents the property that he or she received.

- (9) A gift (including a gift made before the commencement of this Article) is caught by Part 2 if –

- (a) it was made by the defendant at any time after the commission of the relevant offence or, if more than one, the earliest of the relevant offences; and

- (b) the Court considers it appropriate in all the circumstances to take the gift into account.¹⁵

- (9A) A gift (including a gift made before the commencement of this Article) made by the defendant into a trust is caught by Part 2 if –

- (a) it was made within the period of 5 years preceding the commission of the relevant offence or, if more than one, the earliest of the relevant offences;

- (b) the Court considers it appropriate in all the circumstances to take the gift into a trust into account; and

- (c) at any point after the reference date any of the following apply –

- (i) the defendant is a beneficiary (including a discretionary beneficiary) of the trust,

- (ii) the trustees of the trust have the power to add the defendant as a beneficiary of the trust, or

- (iii) written documents of any kind exist which anticipate the defendant benefitting from the trust property at some future time.¹⁶

- (9B) In paragraphs (9) and (9A), "relevant offence" means an offence to which the proceedings for the time being relate, and includes, where the proceedings have resulted in the conviction of the defendant, a reference to any offence that the Court takes into consideration when determining the defendant's sentence.¹⁷

- (9C) In paragraph (9A) “reference date” means the date that is 5 years before the date of commission of the relevant offence, or, if more than one, the earliest of the relevant offences.¹⁸
- (10) For the purposes of Part 2 –
- (a) the circumstances in which the defendant is to be treated as making a gift include those where the defendant transfers property to another person or into a trust directly or indirectly for a value that is significantly less than the value provided by the defendant; and
 - (b) in those circumstances, the preceding provisions of this Article shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in sub-paragraph (a) bears to the value provided by the defendant.¹⁹
- (11) The States may amend this Article (except this paragraph) by Regulations.²⁰

PART 2

CONFISCATION ORDERS AND INSTRUMENTALITIES FORFEITURE ORDERS²¹

3 Confiscation orders

- (1) Where a defendant appears before the Court to be sentenced in respect of one or more offences specified in Schedule 1, and the defendant has not previously been sentenced or otherwise dealt with in respect of his or her conviction for the offence or (as the case may be) any of the offences concerned –
- (a) if the Attorney General asks the Court to proceed under this Article; or
 - (b) if the Court considers that, even though the Attorney General has not asked it to do so, it is appropriate for it to proceed under this Article,
- the Court may act in accordance with this Article.
- (2) However, this Article shall not apply in the case of any proceedings against any defendant where the defendant is convicted in those proceedings of an offence that was committed before this Article comes into force.
- (3) Where the Court is proceeding under this Article, it may first determine whether the defendant has benefited from any relevant criminal conduct.
- (4) If the Court determines that the defendant has so benefited it may, before sentencing or otherwise dealing with the defendant in respect of the offence or (as the case may be) any of the offences concerned –
- (a) determine in accordance with Article 4 the amount to be recovered in the defendant’s case by virtue of this Article; and
 - (b) make a confiscation order, to the effect that the defendant pay that amount.
- (5) Where the Court makes a confiscation order –
- (a) it shall take account of the order before –
 - (i) imposing any fine on the defendant,

- (ii) making any order (except an instrumentalities forfeiture order under Article 28B) involving any payment by the defendant, or
 - (iii) making any forfeiture order under Article 29 of the [Misuse of Drugs \(Jersey\) Law 1978](#), Article 27 of the [Terrorism \(Jersey\) Law 2002](#) or Article 15 of the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#); and
- (b) subject to sub-paragraph (a), it shall leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant in the proceedings.²²
- (6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with the offender also in any other way shall by reason only of the making of an order under this Article restrict the Court from dealing with an offender in any way that the Court considers appropriate in respect of an offence specified in Schedule 1.
- (7) Where –
 - (a) the Court makes both a confiscation order and an order for the payment of compensation under Article 2 of the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#) against the same person in the same proceedings; and
 - (b) it appears to the Court that the person will not have sufficient means to satisfy both the orders in full,it shall direct that so much of the compensation as will not in its opinion be recoverable because of the insufficiency of the person's means shall be paid out of any sums recovered under the confiscation order.
- (8) The standard of proof required to determine any question arising under this Law as to –
 - (a) whether a person has benefited from any offence; or
 - (b) the amount to be recovered in the person's case by virtue of this Article,shall be that applicable in civil proceedings.
- (9) The States may amend Schedule 1 by Regulations, by adding, deleting or substituting any offence.²³

4 Amount to be recovered under confiscation order²⁴

- (1) Subject to paragraphs (2) and (3), the amount which a defendant is required by a confiscation order to pay (in this Article, “the penalty”) shall, except where Article 28B(5)(b)(i) applies, be the amount assessed by the Court to be the value of the defendant's benefit from the relevant criminal conduct (in paragraph (2), the “assessed value”).²⁵
- (2) Where the Court is satisfied that the amount which might be realised at the time when the confiscation order is made is less than the assessed value, the penalty shall be the amount which appears to the Court might be so realised (or, if that amount is nil, a nominal amount).
- (3) Where the Court is satisfied that a victim of the relevant criminal conduct has instituted or intends to institute civil proceedings against the defendant in respect of

loss, injury or damage sustained in connection with that conduct, the penalty may be of such lesser amount as the Court thinks fit.

5 Confiscation order relating to a course of relevant criminal conduct

- (1) This Article applies for the purposes of Article 3 where a defendant appears before the Court to be sentenced in respect of a qualifying offence –
 - (a) if the Attorney General asks the Court to apply it for the purposes of that Article; or
 - (b) if the Court considers that, even though the Attorney General has not asked it to do so, it is appropriate for it to do so.²⁶
- (2) An offence is a qualifying offence for the purposes of this Part if it is an offence in respect of which all of the following conditions are satisfied, namely –
 - (a) it is an offence specified in Schedule 1;
 - (b) it is an offence committed after this Article comes into force; and
 - (c) the Court is satisfied that it is an offence from which the defendant has benefited.
- (3) The relevant period for the purposes of this Article, in relation to a defendant, is the period of 6 years ending when the proceedings in which this Article applies were instituted against the defendant.
- (4) When this Article applies for the purposes of Article 3, the Court may if it thinks fit (but subject to paragraph (6)) make the assumptions in paragraph (5) for the purpose –
 - (a) of determining whether the defendant has benefited from relevant criminal conduct; and
 - (b) if the defendant has, of assessing the value of the defendant's benefit from such conduct.
- (5) Those assumptions are –
 - (a) that any property appearing to the Court to be held by the defendant at any time since the date of the defendant's conviction, or appearing to the Court to have been transferred to the defendant at any time since the beginning of the relevant period –
 - (i) was received by the defendant at the earliest time when he or she appears to the Court to have held it, and
 - (ii) was received by the defendant as a result of or in connection with the commission of offences specified in Schedule 1;
 - (b) that any of the defendant's expenditure since the beginning of the relevant period was met out of payments received by the defendant as a result of or in connection with the commission of offences specified in Schedule 1; and
 - (c) for the purposes of valuing any property that the defendant had or is assumed to have had at any time, that the defendant received the property free of any other interests in it.
- (6) The Court shall not make an assumption in paragraph (5) in respect of any particular property or expenditure –

- (a) if the assumption, so far as it relates to that property or expenditure, is shown to be incorrect;
 - (b) if the assumption, so far as it relates to that property or expenditure, is shown to be correct in respect of an offence from which the defendant's benefit has been the subject of a previous confiscation order or instrumentalities forfeiture order; or
 - (c) if the Court is satisfied that, for any other reason, there would be a serious risk of injustice if the assumption were made in respect of that property or expenditure.²⁷
- (7) Where the assumptions in paragraph (5) are made the offences from which, in accordance with those assumptions, the defendant is found to have benefited shall be treated as if they were comprised, for the purposes of this Part, in the conduct that is to be treated as relevant criminal conduct by the defendant.
- (8) In this Article, the "date of the defendant's conviction" means –
- (a) in a case not falling within sub-paragraph (b), the date on which the defendant is convicted of the offence in question; and
 - (b) where the defendant is convicted of that offence and one or more other offences in the proceedings in question, and those convictions are not all on the same date, the date of the latest of those convictions.

6 Postponed determinations

- (1) Where the Court is acting under Article 3 or 28B but considers that it requires further information before –
- (a) determining whether the defendant has benefited from any relevant criminal conduct; or
 - (b) determining the amount to be recovered in the defendant's case by virtue of Article 3; or
 - (c) making any determinations under Article 28B(1), (3), (4), (5) or (9),
- it may, for the purposes of enabling that information to be obtained, postpone the making of the determination for such period as it may specify.²⁸
- (2) More than one postponement may be made under paragraph (1) in relation to the same case.
- (3) Unless it is satisfied that it is in the interests of justice to do so, the Court shall not specify a period that –
- (a) by itself; or
 - (b) where there have been one or more previous postponements under paragraph (1) or (4), when taken together with the earlier specified period or periods,
- exceeds 6 months beginning with the date of conviction.²⁹
- (4) Where the defendant appeals against his or her conviction, the Court may on that account –
- (a) postpone the making of the determinations mentioned in paragraph (1) for such period as it may specify; or

- (b) where it has already exercised its powers under this Article to postpone, extend the specified period.³⁰
- (5) A postponement or extension under paragraph (1) or (4) may be made –
 - (a) on application by the defendant or the Attorney General; or
 - (b) by the Court of its own motion.
- (6) Unless the Court is satisfied that there are exceptional circumstances, any postponement or extension under paragraph (4) shall not exceed the period ending 3 months after the date on which the appeal is determined or otherwise disposed of.
- (7) Where the Court exercises its power under paragraph (1) or (4), it may nevertheless proceed to sentence or otherwise deal with the defendant in respect of the offence or any of the offences concerned.
- (8) Where the Court has so proceeded, it may determine in accordance with Article 4 the amount to be recovered in the case of the defendant by virtue of Article 3 and make a confiscation order under Article 3 or exercise any of the powers in Article 28B, notwithstanding that the defendant has been sentenced or otherwise dealt with already.³¹
- (9) In sentencing or otherwise dealing with the defendant in respect of the offence concerned, or any of the offences concerned, at any time during the specified period, the Court shall not –
 - (a) impose any fine on the defendant; or
 - (b) make any order mentioned in Article 3(5)(a).
- (10) Where the Court has sentenced the defendant under paragraph (7) of this Article during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any order mentioned in Article 3(5)(a), so long as it does so within 28 days after the specified period.
- (11) In this Article the “date of conviction” means –
 - (a) in a case not falling within sub-paragraph (b), the date on which the defendant was convicted; or
 - (b) where the defendant was convicted, in the same proceedings but on different dates, of 2 or more offences that are comprised in relevant criminal conduct, the date of the latest of those convictions.

7 Statements relating to criminal offences

- (1) Subject to paragraphs (3) and (4), the Attorney General –
 - (a) may at any time give to the Court a statement of matters that the Attorney General considers relevant for the purpose –
 - (i) of determining whether the defendant has benefited from any relevant criminal conduct,
 - (ii) of assessing the value of the defendant’s benefit from that conduct, or
 - (iii) of making any of the determinations under Article 28B(1), (3), (4), (5) or (9); and

- (b) shall give to the Court such a statement, setting out all information available to the Attorney General that is relevant for the purposes of Article 5(5) and (6), if the case is one in which the Attorney General has asked the Court to apply that Article for the purposes of Article 3.³²
- (2) In this Article, such a statement is referred to as an “Attorney General’s statement”.
- (3) Where the Court proceeds under Article 3 without being asked by the Attorney General to do so, it may require the Attorney General to give an Attorney General’s statement within such period as it may determine.
- (4) Where the Attorney General applies to the Court under any of Articles 9, 12, 13 and 14 the Attorney General shall give to the Court, within such time as it may direct, an Attorney General’s statement.
- (5) Where the Attorney General has given an Attorney General’s statement –
- (a) the Attorney General may at any time give the Court a further Attorney General’s statement; and
- (b) the Court may at any time require the Attorney General to give it a further Attorney General’s statement, within such further period as it may direct.
- (6) Where any Attorney General’s statement has been given and the Court is satisfied that a copy of the statement has been served on the defendant, it may require the defendant –
- (a) to indicate to it, within such period as it may direct, the extent to which the defendant accepts each allegation in the statement; and
- (b) so far as the defendant does not accept any such allegation, to give particulars of any matters on which the defendant proposes to rely.
- (7) Where the Court has given a direction under this Article, it may at any time vary it by a further direction.
- (8) Where the defendant accepts to any extent any allegation in any Attorney General’s statement, the Court may, for the purposes of –
- (a) determining whether the defendant has benefited from relevant criminal conduct;
- (b) assessing the value of the defendant’s benefit from relevant criminal conduct; or
- (c) making any of the determinations under Article 28B(1), (3), (4), (5) or (9), treat the defendant’s acceptance as conclusive of the matters to which it relates.³³
- (9) If the defendant fails in any respect to comply with a requirement under paragraph (6), the defendant may be treated for the purposes of this Article as accepting every allegation in the Attorney General’s statement in question, apart from –
- (a) any allegation in respect of which the defendant has complied with the requirement
- (b) any allegation that the defendant has benefited from an offence or that any property was obtained by the defendant as a result of or in connection with the commission of an offence; and

- (c) any allegation that property was used in or intended to be used in an offence or in predicate conduct that occurred in Jersey, or is property into which such property has been converted.³⁴
- (10) Where –
- (a) there is tendered to the Court by the defendant a statement as to any matters relevant for the purpose of determining the amount that might be realised at the time the confiscation order or instrumentalities forfeiture order is made; and
 - (b) the Attorney General accepts to any extent any allegation in the statement, the Court may, for the purposes of that determination, treat the acceptance by the Attorney General as conclusive of the matters to which it relates.³⁵
- (11) An allegation may be accepted and particulars of any matter may be given, for the purposes of this Article, in such manner as may be provided for by Rules of Court or as the Court may direct.
- (12) No acceptance by the defendant under this Article that –
- (a) the defendant has benefited from an offence;
 - (b) any property was obtained by the defendant as a result of or in connection with an offence; or
 - (c) any property was used in or intended to be used in an offence or in predicate conduct that occurred in Jersey, or is property into which such property has been converted,
- is admissible in evidence in any proceedings for an offence.³⁶

8 Provision of information by defendant

- (1) This Article applies where –
- (a) the Attorney General has asked the Court to proceed under Article 3 or 28B or has applied to the Court under Article 12, 13 or 14; or
 - (b) no such request or application has been made but the Court is nevertheless proceeding, or considering whether to proceed, under Article 3.³⁷
- (2) For the purpose of obtaining information to assist it in carrying out its functions, the Court may at any time order the defendant to give it such information as may be specified in the order.
- (3) An order under paragraph (2) may require all or any specified part of the required information to be given to the Court in such manner, and before such date, as may be specified in the order.
- (4) Rules of Court may make provision as to the maximum or minimum period that may be allowed under paragraph (3).
- (5) If the defendant fails, without reasonable excuse, to comply with any order under this Article, the Court may draw such inference from that failure as it considers appropriate.
- (6) Where the Attorney General accepts to any extent any allegation made by the defendant in giving to the Court information required by an order under this Article, the Court may treat that acceptance as conclusive of the matters to which it relates.

- (7) For the purposes of this Article, an allegation may be accepted in such manner as may be provided for by Rules of Court or as the Court may direct.

9 Powers of the Court where defendant has died or absconded

- (1) Paragraph (2) applies where a person has been convicted of one or more offences specified in Schedule 1.
- (2) If the Attorney General asks it to proceed under this paragraph, the Court may exercise its powers under this Part to make a confiscation order or an instrumentalities forfeiture order against the defendant, if satisfied that the defendant has died or absconded.³⁸
- (3) Paragraph (4) applies where proceedings for one or more offences specified in Schedule 1 have been instituted against a person but have not been concluded.
- (4) If the Attorney General asks it to proceed under this paragraph, the Court may exercise its powers under this Part to make a confiscation order or an instrumentalities forfeiture order against the defendant, if satisfied that the defendant has absconded.³⁹
- (5) The power conferred by paragraph (4) may not be exercised at any time before the end of the period of 2 years beginning with the date that is, in the opinion of the Court, the date on which the defendant absconded.
- (6) In any proceedings on an application under this Article –
- Articles 5 and 7(6), (8) and (9) shall not apply;
 - the Court shall not make a confiscation order or an instrumentalities forfeiture order against a person who has absconded unless it is satisfied that the Attorney General has taken reasonable steps to contact the person; and
 - any person appearing to the Court to be likely to be affected by the making of a confiscation order or an instrumentalities forfeiture order by the Court shall be entitled to appear before the Court and make representations.⁴⁰

10 Effect of confiscation order or instrumentalities forfeiture order on sentencing of absconder⁴¹

- (1) Where in the case of any defendant the Court has made a confiscation order or an instrumentalities forfeiture order by virtue of Article 9 it shall, in respect of the offence or (as the case may be) any of the offences concerned –
- take account of the orders before –
 - imposing any fine on the defendant,
 - making any order involving any payment by the defendant, or
 - making any forfeiture order under Article 29 of the [Misuse of Drugs \(Jersey\) Law 1978](#), Article 26 of the [Terrorism \(Jersey\) Law 2002](#) or Article 15 of the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#); and
 - subject to sub-paragraph (a), leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant.⁴²

- (2) Where the Court has made a confiscation order or an instrumentalities forfeiture order by virtue of Article 9, and the defendant subsequently appears before the Court to be sentenced in respect of one or more of the offences concerned, neither Article 3(1) nor 28B(1) apply so far as the defendant's appearance is in respect of that offence or those offences.⁴³

11 Enforcement of confiscation orders and instrumentalities forfeiture orders⁴⁴

- (1) Where the Court orders the defendant to pay any amount under Article 3 or 28B the Court may order the defendant to be imprisoned, for a fixed term to be specified in the order, in default of payment of the amount.⁴⁵
- (1A) If orders are made under both Articles 3 and 28B in the same proceedings, a separate term of imprisonment must be specified in respect of each order.⁴⁶
- (2) The term of imprisonment to be so specified shall not exceed 10 years.
- (3) The effect of an order of imprisonment under paragraph (1) shall be as follows –
- (a) in default of payment of the amount to which the order relates, the defendant shall serve the term of imprisonment specified in the order;
 - (b) if payment is made of any part of the amount due, the term of imprisonment shall be reduced by such number of days as bears, to the total number of days of the term of imprisonment, the same proportion as the amount so paid bears to as much of the amount as was due at the time when the confiscation order or instrumentalities forfeiture order was made; and
 - (c) if the whole of the amount due is paid before the defendant has served the term of imprisonment specified in the order, the defendant shall not be liable to serve any remaining portion of that term.⁴⁷
- (4) The term of imprisonment imposed under paragraph (1) in default of payment shall not, in the case of a defendant who is liable to serve a term of imprisonment in respect of the offence or offences, begin to run until after the defendant has served the term of imprisonment for the offence or offences.
- (5) The reference in paragraph (4) to the term of imprisonment that the defendant is liable to serve in respect of the offence or offences is a reference to the term of imprisonment, or detention in a young offender institution, that the defendant is liable to serve in respect of the offence or offences, and for the purposes of this paragraph consecutive terms and terms that are wholly or partly concurrent shall be treated as a single term.
- (5A) If the defendant is required to serve terms of imprisonment imposed under paragraph (1) in relation to both a confiscation order and an instrumentalities forfeiture order at the same time, the default terms of imprisonment must be served concurrently with each other.⁴⁸
- (6) This Article applies to confiscation orders and instrumentalities forfeiture orders made by the Court of Appeal as it applies to confiscation orders and instrumentalities forfeiture orders made by the Royal Court, and references in this Article to the Court shall be construed accordingly.⁴⁹
- (7) Where the defendant serves a term of imprisonment or detention in default of payment of any amount due under a confiscation order or instrumentalities forfeiture order, the defendant's serving of that term does not prevent the confiscation order or

instrumentalities forfeiture order from continuing to have effect, so far as any other method of enforcement is concerned.⁵⁰

12 Reconsideration of case where Court has not considered a confiscation order

- (1) This Article applies where the defendant has appeared before the Court to be sentenced in respect of one or more offences specified in Schedule 1, but the Court has not proceeded under Article 3.
- (2) If the Attorney General has evidence –
 - (a) that was not available when the defendant appeared to be sentenced (and accordingly was not considered by the Court); and
 - (b) that the Attorney General believes would have led the Court to determine that the defendant had benefited from relevant criminal conduct if –
 - (i) the Attorney General had asked the Court to proceed under Article 3, and
 - (ii) the evidence had been considered by the Court,the Attorney General may apply to the Court for it to consider the evidence.
- (3) The Court may then proceed under Article 3 if, having considered the evidence, it is satisfied that it is appropriate to do so.
- (4) In considering whether it is appropriate to proceed under Article 3 by virtue of this Article, the Court shall have regard to all the circumstances of the case.
- (5) Where, having decided to proceed under Article 3 by virtue of this Article, the Court proposes to make a confiscation order against the defendant, it shall order the payment of such amount as it thinks just in all the circumstances of the case.
- (6) In considering the circumstances of any case the Court shall have regard, in particular, to –
 - (a) any fine imposed on the defendant in respect of any relevant criminal conduct;
 - (aa) any order made under Article 28B(5)(b); and
 - (b) any order made in connection with such conduct under Article 2 of the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#).⁵¹
- (7) Where the Court is proceeding under Article 3 by virtue of this Article, the requirement in Article 3(4) that the Court shall not have sentenced or otherwise dealt with the defendant already, in the case in question, shall not apply.
- (8) The Court may take into account any payment or other reward received by the defendant on or after the date of conviction, but only if the Attorney General shows that it represents the defendant's benefit from any relevant criminal conduct.
- (9) On an application made under Article 3 by virtue of this Article –
 - (a) if the Attorney General asks the Court to apply Article 5; or
 - (b) if the Court considers that, even though the Attorney General has not asked it to do so, it is appropriate for it to do so,

and the other requirements of Article 5(1) are fulfilled, that Article shall apply notwithstanding that the defendant has been sentenced or otherwise dealt with already, in the case in question, but in that event no assumption may be made under

paragraph (4) of that Article in respect of any property unless it was held by or transferred to the defendant before the defendant was sentenced or otherwise dealt with.

- (10) No application shall be entertained by the Court under this Article if it is made after the end of the period of 6 years beginning with the date of conviction.
- (11) In this Article the “date of conviction” means –
 - (a) in a case not falling within sub-paragraph (b), the date on which the defendant was convicted; or
 - (b) where the defendant appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, the date of the latest of those convictions.

13 Reconsideration of determination that defendant has not benefited

- (1) This Article applies where the Court has made a determination (the “original determination”) under Article 3(3) that the defendant has not benefited from any relevant criminal conduct.
- (2) If the Attorney General has evidence –
 - (a) that was not considered by the Court in making the original determination; and
 - (b) that the Attorney General believes would have led the Court to determine that the defendant had benefited from that relevant criminal conduct if it had been considered by the Court,the Attorney General may apply to the Court for it to consider that evidence.
- (3) If, having considered the evidence, the Court is satisfied that it would have determined that the defendant had benefited from relevant criminal conduct if that evidence had been available to it, the Court –
 - (a) shall make a fresh determination under Article 3(3); and
 - (b) shall make a determination under paragraph (4) of that Article of the amount to be recovered by virtue of that Article; and
 - (c) may make a confiscation order.
- (4) Where the Court is proceeding under Article 3 by virtue of this Article, the requirement in Article 3(4) that the Court shall not have sentenced or otherwise dealt with the defendant already, in the case in question, shall not apply.
- (5) The Court may take into account any payment or other reward received by the defendant on or after the date of the original determination, but only if the Attorney General shows that it represents the defendant’s benefit from any relevant criminal conduct.
- (6) On an application made under Article 3 by virtue of this Article in a case to which Article 5 does not otherwise apply –
 - (a) if the Attorney General asks the Court to apply Article 5; or
 - (b) if the Court considers that, even though the Attorney General has not asked it to do so, it is appropriate for it to do so,

and the other requirements of Article 5(1) are fulfilled, that Article shall apply notwithstanding that the defendant has been sentenced or otherwise dealt with already, in the case in question, but in that event no assumption may be made under paragraph (4) of that Article in respect of any property unless it was held by or transferred to the defendant before the defendant was sentenced or otherwise dealt with.

- (7) Where the Court –
 - (a) has been asked to proceed under Article 9 in relation to a defendant who has absconded; and
 - (b) has decided not to make a confiscation order against the defendant,this Article shall not apply at any time while the defendant remains an absconder.
- (8) No application shall be entertained by the Court under this Article if it is made after the end of the period of 6 years beginning –
 - (a) in a case not falling within sub-paragraph (b), with the date on which the defendant was convicted; or
 - (b) where the defendant appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, with the date of the latest of those convictions.

14 Revised assessment of benefit already determined

- (1) This Article applies where the Court has made a determination under Article 3(4) of the amount to be recovered in a particular case by virtue of that paragraph (the “current determination”).
- (2) Where the Attorney General is of the opinion that the value of the defendant’s benefit from any relevant criminal conduct was greater than the value at which that benefit was assessed by the Court on the current determination, the Attorney General may apply to the Court for the evidence on which the Attorney General has formed his or her opinion to be considered by the Court.
- (3) If, having considered the evidence, the Court is satisfied that the real value of the defendant’s benefit from relevant criminal conduct is greater than its assessed value (whether because the real value was higher at the time of the current determination than was thought or because the value of the benefit in question has subsequently increased), the Court shall make a fresh determination under Article 3(4) of the amount to be recovered by virtue of that Article.
- (4) Where the Court is proceeding under Article 3 by virtue of this Article, the requirement in Article 3(4) that the Court shall not have sentenced or otherwise dealt with the defendant already, in the case in question, shall not apply.
- (5) Any determination under Article 3(4) by virtue of this Article shall be by reference to the amount that might be realised at the time when that determination is made.
- (6) For the purposes of any determination under Article 3(4) by virtue of this Article, the restriction in Article 5(6) (by reason of Article 5(6)(b)) on the Court’s power to make assumptions shall not apply in relation to any of the defendant’s benefit from relevant criminal conduct taken into account in respect of the current determination.
- (7) In relation to any determination under Article 3(4) by virtue of this Article, Article 2(3), Article 4 and 7(10) shall have effect as if it were a confiscation order.

- (8) The Court may take into account any payment or other reward received by the defendant on or after the current determination, but only if the Attorney General shows that it represents the defendant's benefit from relevant criminal conduct.
- (9) Where –
- (a) the Court is, by virtue of paragraph (3) of this Article, to make a fresh determination; and
 - (b) the case is one to which Article 5 applies,
- no assumption may be made under paragraph (4) of that Article in respect of any property unless it was held by or transferred to the defendant before the time when the defendant was sentenced or otherwise dealt with in the case in question.
- (10) If, as a result of the making of the fresh determination required by paragraph (3), the amount to be recovered exceeds the amount of the current determination, the Court may substitute for the amount to be recovered under the confiscation order that was made by reference to the current determination such greater amount as it thinks just in all the circumstances of the case.
- (11) Subject to Article 11, where the Court varies a confiscation order under paragraph (10), it may substitute for any term of imprisonment imposed under Article 11(1) a longer term in respect of the greater amount substituted under paragraph (10) of this Article.
- (12) Where a confiscation order has been made in relation to any defendant by virtue of Article 9, this Article shall not apply at any time while the defendant is an absconder.
- (13) No application shall be entertained by the Court under this Article if it is made after the end of the period of 6 years beginning –
- (a) in a case not falling within sub-paragraph (b), with the date on which the defendant was convicted; or
 - (b) where the defendant appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, with the date of the latest of those convictions.

15 Cases in which *saisies judiciaires* may be made

- (1) The powers conferred on the Court by Article 16 are exercisable where –
- (a) the Court has made a confiscation order or an instrumentalities forfeiture order;
 - (b) proceedings have been instituted in Jersey against the defendant for an offence specified in Schedule 1 or an application has been made by the Attorney General in respect of the defendant under any of Articles 9, 12, 13, 14, 19 and 28B and –
 - (i) the proceedings have not, or the application has not, been concluded, and
 - (ii) the Court is satisfied that there is reasonable cause to believe –
 - (A) in the case of an application under Article 14 or 19, that the Court will be satisfied as mentioned in Article 14(3) or (as the case may be) Article 19(2),

- (AA) in the case of an application under Article 28B, that the Court may make or vary an instrumentalities forfeiture order, or
- (B) in any other case, that the defendant has benefited from the offence; or
- (c) the Court is satisfied –
 - (i) that proceedings are to be instituted in Jersey against a person for an offence specified in Schedule 1, or that an application of a kind mentioned in sub-paragraph (b) of this paragraph is to be made against the defendant, and
 - (ii) as to the matters mentioned in clause (ii) of that sub-paragraph.⁵²
- (1A) The powers conferred on the Court by Article 16 are also exercisable where –
 - (a) a criminal investigation has been started in Jersey in respect of alleged criminal conduct; and
 - (b) the Court is satisfied that there is reasonable cause to believe that the alleged offender has benefited from the criminal conduct;
 - (c) the Court is satisfied that there is reasonable cause to believe that property was used in or intended to be used in the alleged criminal conduct or in any predicate conduct that occurred in Jersey.⁵³
- (2) For the purposes of Article 16, at any time when those powers are exercisable before proceedings have been instituted –
 - (a) references in this Part to the defendant shall be construed as references to the person to whom paragraph (1)(c) of this Article refers;
 - (b) references in this Part to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person to whom paragraph (1)(c) of this Article refers for an offence specified in Schedule 1.
- (3) Where the Court has made an order under Article 16 by virtue of paragraph (1)(c) of this Article, in relation to proposed proceedings for an offence specified in Schedule 1, the Court shall discharge the order if the proceedings have not been instituted within such time as the Court considers reasonable.
- (4) Where the Court has made an order under Article 16 in relation to a proposed application by virtue of paragraph (1)(c) of this Article, the Court shall discharge the order if the application is not made within such time as the Court considers reasonable.
- (5) The Court shall not exercise its powers under Article 16, by virtue of paragraphs (1)(a) and (b) or (1A) of this Article, if it is satisfied that –
 - (a) there has been undue delay in commencing proceedings or, as the case may be, continuing the proceedings or application in question; or
 - (b) the Attorney General does not intend to proceed.⁵⁴

16 Saisies judiciaires

- (1) The Court may, subject to such conditions and exceptions as may be specified in it, make an order (in this Part referred to as a *saisie judiciaire*) on an application made by or on behalf of the Attorney General.
- (2) An application for a *saisie judiciaire* may be made *ex parte* to the Bailiff in chambers.
- (3) A *saisie judiciaire* shall provide for notice to be given to any person affected by the order.
- (4) Subject to paragraph (5), on the making of a *saisie judiciaire* –
 - (a) all the realisable property held by the defendant in Jersey shall vest in the Viscount;
 - (b) any specified person may be prohibited from dealing with any realisable property held by that person whether the property is described in the order or not;
 - (c) any specified person may be prohibited from dealing with any realisable property transferred to the person after the making of the order,and the Viscount shall have the duty to take possession of and, in accordance with the Court's directions, to manage or otherwise deal with any such realisable property; and any specified person having possession of any realisable property may be required to give possession of it to the Viscount.
- (5) Any property vesting in the Viscount pursuant to paragraph (4)(a) shall so vest subject to all hypothecs and security interests with which such property was burdened prior to the vesting.
- (6) A *saisie judiciaire* –
 - (a) may be discharged or varied in relation to any property;
 - (b) in a case falling within paragraph (1A) of Article 15 –
 - (i) may be discharged, on the application of the alleged offender and before the commencement of any proceedings against the alleged offender, where the Court is satisfied that there has been undue delay in commencing proceedings in pursuance of the criminal investigation;
 - (ii) shall be discharged, where the Attorney General informs the Court that proceedings will not be commenced in pursuance of the criminal investigation;and
 - (c) shall be discharged on satisfaction of the confiscation order.⁵⁵
- (7) An application for the discharge or variation of a *saisie judiciaire* may be made to the Bailiff in chambers by any person affected by it and the Bailiff may rule upon the application or may, at the Bailiff's discretion, refer it to the Court for adjudication.
- (8) Where it appears to the Court that any order made by it under this Article may affect immovable property situate in Jersey, it shall order the registration of the order in the Public Registry.

- (9) For the purposes of this Article, dealing with property held by any person includes (without prejudice to the generality of the expression) –
 - (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
 - (b) removing the property from Jersey.
- (10) Where the Court has made a *saisie judiciaire* a police officer may, for the purpose of preventing the removal of any realisable property from Jersey, seize the property.
- (11) Property seized under paragraph (10) shall be dealt with in accordance with the Court's directions.

17 Realisation of property

- (1) Where –
 - (a) in proceedings that have been instituted for an offence, a confiscation order or an instrumentalities forfeiture order is made or an order is varied under Article 14, 19 or 28B(6);
 - (b) the order is not subject to appeal;
 - (c) the proceedings relating to the order have not been concluded; and
 - (d) the Court has made a *saisie judiciaire*,the Court may empower the Viscount to realise, in such manner as it may direct, any realisable property that has vested in the Viscount or come into the Viscount's possession pursuant to Article 16.⁵⁶
- (2) The Court shall not in respect of any property exercise its power under paragraph (1) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court.

18 Interest on sums unpaid under confiscation orders or instrumentalities forfeiture orders⁵⁷

- (1) If any sum required to be paid by a person under a confiscation order or instrumentalities forfeiture order is not paid when it is required to be paid, that person shall be liable to pay interest on that sum for the period for which it remains unpaid, and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered under the confiscation order or instrumentalities forfeiture order.⁵⁸
- (2) When paragraph (1) of this Article applies and interest has accrued, the Court may on the application of the Attorney General increase (subject to Article 11) any term of imprisonment imposed under paragraph (1) of that Article.
- (3) The rate of interest under paragraph (1) shall be such rate as is prescribed by Rules of Court.⁵⁹

19 Increase in realisable property

- (1) This Article applies where, by virtue of Article 4, the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of the person's benefit from relevant criminal conduct.
- (2) If, on an application made in accordance with paragraph (3), the Court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made, or it has subsequently increased) the Court shall issue a certificate to that effect, giving the Court's reasons.
- (3) An application under paragraph (2) may be made by the Attorney General or by the Viscount in relation to the realisable property of the person in question.
- (4) Where a certificate has been issued under paragraph (2) the Attorney General may apply to the Court for an increase in the amount to be recovered under the confiscation order, and on that application and subject to Article 28B(7) the Court may –
 - (a) substitute for that amount such amount (not exceeding the assessed value to which paragraph (1) refers) as appears to the Court to be appropriate having regard to the amount now shown to be realisable; and
 - (b) subject to Article 11, increase any term of imprisonment imposed under paragraph (1) of that Article.⁶⁰

20 Application of proceeds of realisation and other sums

- (1) The following sums in the hands of the Viscount, that is to say –
 - (a) money that has vested in the Viscount or come into the Viscount's possession pursuant to Article 16; and
 - (b) the proceeds of the realisation of any property under Article 17,shall, after such payments (if any) as the Court may direct have been made out of those sums and then after payment of the Viscount's fees and expenses, be applied on the defendant's behalf towards the satisfaction of the confiscation order or instrumentalities forfeiture order.⁶¹
- (2) The amount applied by the Viscount towards the satisfaction of the confiscation order or instrumentalities forfeiture order shall be paid into the Criminal Offences Confiscations Fund.⁶²
- (3) If, after payment of the Viscount's fees and expenses and of the amount payable under the confiscation order or instrumentalities forfeiture order, any sums remain in the hands of the Viscount, the Viscount shall distribute those sums –
 - (a) among such of those persons who held the property that has been realised under this Part; and
 - (b) in such proportions,as the Court may direct after giving them a reasonable opportunity to make representations to the Court.⁶³

21 Variation of confiscation order or instrumentalities forfeiture order where realisable property is inadequate⁶⁴

- (1) If, on an application by the defendant or the Viscount in respect of a confiscation order or an instrumentalities forfeiture order, the Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order, the Court shall issue a certificate to that effect, giving the Court's reasons.⁶⁵
- (2) For the purposes of paragraph (1) –
 - (a) in the case of realisable property held by a person who has become bankrupt, the Court shall take into account the extent to which the person has been deprived of property for the benefit of the person's creditors; and
 - (b) the Court may disregard any inadequacy in the realisable property that appears to the Court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by this Part from any risk of realisation under this Part.
- (3) Where a certificate has been issued under paragraph (1), the person who applied for it may apply to the Court for the amount to be recovered under the order to be reduced.
- (4) The Court may, on an application under paragraph (3) –
 - (a) substitute for the amount to be recovered under the order such lesser amount as the Court thinks just in all the circumstances of the case; and
 - (b) subject to Article 11, substitute for any term of imprisonment imposed under paragraph (1) of that Article a shorter term in respect of the lesser amount substituted under sub-paragraph (a) of this paragraph.
- (5) Rules of Court may make provision –
 - (a) for the giving of notice of any application under this Article; and
 - (b) for any person appearing to the Court to be affected by the exercise of its powers under this Article to be given a reasonable opportunity to make representations to the Court.

22 Bankruptcy of defendant

- (1) Where a person who holds realisable property becomes bankrupt –
 - (a) no property for the time being subject to a *saisie judiciaire* made before the order adjudging the person bankrupt; and
 - (b) no proceeds of property realised by virtue of Article 16(4) or 17 for the time being in the hands of the Viscount,shall form part of the person's estate for the relevant bankruptcy proceedings.
- (2) Where a person has become bankrupt, the powers conferred on the Court by Articles 16, 17, 18, 19, 20 and 28B or on the Viscount shall not be exercised in relation to –
 - (a) property which the 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 the bankrupt has made a general cession (*a fait cession générale*); or
 - (d) property which has been adjudged renounced (*adjudé renoncé*).⁶⁶
- (3) Paragraph (2) does not affect the enforcement of a *saisie judiciaire* –
- (a) made before the person becomes bankrupt; or
 - (b) on property that was subject to a *saisie judiciaire* when the person became bankrupt.

23 Limitation of liability of Viscount⁶⁷

Where the Viscount –

- (a) takes any action in relation to property that is not realisable 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 the Viscount is entitled to take that action in relation to that property,

the Viscount shall not be liable to any person in respect of any loss or damage resulting from the Viscount's action, except in so far as the loss or damage is caused by the Viscount's bad faith.

24 Criminal Offences Confiscations Fund

- (1) There shall be established a Fund to be called the Criminal Offences Confiscations Fund which, subject to this Article, shall be managed and controlled by the Minister for Treasury and Resources.⁶⁸
- (2) All amounts –
 - (a) recovered under or in satisfaction of a confiscation order or instrumentalities forfeiture order;
 - (b) received under an asset sharing agreement; or
 - (c) received under a deferred prosecution agreement,must be included in the monies which are paid into the Fund.⁶⁹
- (3) Monies paid into the Fund shall not form part of the annual income of the States.
- (3A)⁷⁰
- (4) Subject to paragraph (5), monies in the Fund shall be applied by the Minister for Treasury and Resources for the following purposes, that is to say –
 - (a) in promoting or supporting measures that, in the opinion of the Minister for Treasury and Resources, may assist –
 - (i) in preventing, suppressing or otherwise dealing with criminal conduct,
 - (ii) in dealing with the consequences of criminal conduct, or
 - (iii) without prejudice to the generality of clauses (i) and (ii), in facilitating the enforcement of any enactment dealing with criminal conduct;

- (b) discharging Jersey's obligations under asset sharing agreements; and
 - (c) meeting the expenses incurred by the Minister for Treasury and Resources in administering the Fund.⁷¹
- (4A) Without prejudice to the generality of paragraph (4), and following consultation with the Attorney General, the States may by Regulations provide that such particular monies or particular class of monies in the Fund as shall be specified in the Regulations shall be applied only for such purpose as shall similarly be specified.⁷²
- (5) Before promoting or supporting any measure under paragraph (4)(a), the Minister for Treasury and Resources shall consult the Attorney General and other persons or bodies (including other Ministers) as the Minister for Treasury and Resources considers appropriate.⁷³
- (6) Monies paid into the Fund, while not applied for any of the purposes mentioned in paragraph (4), may be –
- (a) held in the custody of the Treasurer of the States at the States Treasury; or
 - (b) placed, in the name of the States, in a current or deposit account with one or more banks selected by the Minister for Treasury and Resources,
- and any interest earned on such monies while held in such an account shall be paid by the States into the Fund.⁷⁴
- (7) Monies held in any account by virtue of paragraph (6)(b) may be withdrawn on the signature of the Treasurer of the States.
- (8) In this Article, “asset sharing agreement” means any agreement or arrangement made by or on behalf of Jersey with a country or territory outside Jersey for the sharing of the proceeds of criminal conduct or instrumentalities or their value that, as a result of mutual assistance, have been confiscated or forfeited either in Jersey or elsewhere.⁷⁵
- (9) In paragraph (2)(c), “deferred prosecution agreement” has the meaning given in Article 2(1) of the [Criminal Justice \(Deferred Prosecution Agreements\) \(Jersey\) Law 2023](#).⁷⁶

25 Compensation where defendant not convicted

- (1) If proceedings are instituted against a person for an offence or offences specified in Schedule 1, and either –
- (a) the proceedings do not result in the person's conviction for any such offence; or
 - (b) where the person is convicted of one or more of those offences –
 - (i) the conviction or convictions concerned are quashed, or
 - (ii) the person is pardoned by His Majesty in respect of the conviction or convictions concerned,
- the Court may, on an application by a person who held property that was realisable property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.⁷⁷
- (2) The Court shall not order compensation to be paid in any case unless it is satisfied –

- (a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence or offences concerned; and
 - (b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of a *saisie judiciaire*.
- (3) The Court shall not order compensation to be paid in any case where it appears to the Court that the proceedings would have been instituted or continued even if the serious default had not occurred.
- (4) The amount of compensation to be paid under this Article shall be such as the Court thinks just in all the circumstances of the case.
- (5) Compensation payable under this Article shall be payable out of the annual income of the States.

26 Cancellation of confiscation order or instrumentalities forfeiture order, and compensation, where absconder acquitted⁷⁸

- (1) Where –
- (a) the Court has made a confiscation order or instrumentalities forfeiture order by virtue of Article 9(4) in relation to a defendant who is an absconder; and
 - (b) the defendant is subsequently tried for the offence or offences concerned and acquitted on all counts,
- the Court shall cancel the confiscation order or instrumentalities forfeiture order.⁷⁹
- (2) The Court may, on the application of a person who held property that was realisable property, order compensation to be paid to the applicant if it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order or instrumentalities forfeiture order.⁸⁰
- (3) The amount of compensation to be paid under this Article shall be such as the Court considers just in all the circumstances of the case.
- (4) Provision may be made by Rules of Court for –
- (a) giving notice of any application under this Article; and
 - (b) any person appearing to the Court to be likely to be affected by any exercise of its powers under this Article to be given a reasonable opportunity to make representations to the Court.
- (5) Compensation payable under this Article shall be paid out of the annual income of the States.
- (6) Where the Court cancels a confiscation order or instrumentalities forfeiture order under this Article, it may make such consequential or incidental order as it considers appropriate in connection with the cancellation.⁸¹

27 Cancellation of confiscation order or instrumentalities forfeiture order, and compensation, where absconder returns⁸²

- (1) This Article applies where –
- (a) the Court has made a confiscation order or instrumentalities forfeiture order by virtue of Article 9(4) in relation to a defendant who is an absconder;

- (b) the defendant has ceased to be an absconder; and
 - (c) Article 26 does not apply.⁸³
- (2) The Court may, on the application of the defendant, cancel the confiscation order or instrumentalities forfeiture order if it is satisfied that –
 - (a) there has been undue delay in continuing the proceedings in respect of which the power under Article 9(4) was exercised; or
 - (b) the Attorney General does not intend to proceed with the prosecution.⁸⁴
- (3) Where the Court cancels a confiscation order or instrumentalities forfeiture order under this Article it may, on the application of a person who held property which was realisable property, order compensation to be paid to the applicant if it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order or instrumentalities forfeiture order.⁸⁵
- (4) The amount of compensation to be paid under this Article shall be such as the Court considers just in all the circumstances of the case.
- (5) Provision may be made by Rules of Court for –
 - (a) the giving of notice of any application under this Article; and
 - (b) any person appearing to the Court to be likely to be affected by any exercise of its powers under this Article to be given a reasonable opportunity to make representations to the Court.
- (6) Compensation payable under this Article shall be paid out of the annual income of the States.
- (7) Where the Court cancels a confiscation order or instrumentalities forfeiture order under this Article, it may make such consequential or incidental order as it considers appropriate in connection with the cancellation.⁸⁶

28 Variation of confiscation order or instrumentalities forfeiture order, and compensation, where absconder returns⁸⁷

- (1) This Article applies where –
 - (a) the Court has made a confiscation order or instrumentalities forfeiture order by virtue of Article 9(4) in relation to a defendant who is an absconder; and
 - (b) the defendant has ceased to be an absconder.⁸⁸
- (2) If the defendant alleges that –
 - (a) the value of the defendant's benefit from any relevant criminal conduct in the period by reference to which the determination in question was made (the "original value");
 - (b) the amount that might have been realised at the time the confiscation order or instrumentalities forfeiture order was made; or
 - (c) the value of property described under Article 28B(3),was less than the amount ordered to be paid under the confiscation order or instrumentalities forfeiture order, the defendant may apply to the Court for it to consider the defendant's evidence.⁸⁹

- (3) If, having considered that evidence, the Court is satisfied that the defendant's allegation is correct, it –
 - (a) shall make a fresh determination under Article 3(4) or 28B(3); and
 - (b) may, if it considers it just in all the circumstances, vary the amount to be recovered under the confiscation order or instrumentalities forfeiture order.⁹⁰
- (4) For the purposes of any determination under Article 3(4) or 28B(3) by virtue of this Article, the restriction in Article 5(6) (by reason of Article 5(6)(b)) on the Court's power to make assumptions shall not apply in relation to any of the defendant's benefit from relevant criminal conduct taken into account in determining the original value.⁹¹
- (5) Where the Court varies a confiscation order or instrumentalities forfeiture order under this Article –
 - (a) it may (subject to Article 11) substitute for any term of imprisonment imposed under paragraph (1) of that Article a shorter term in respect of the lesser amount substituted under paragraph (3)(b) of this Article by way of variation of the confiscation order or instrumentalities forfeiture order; and
 - (b) on the application of a person who held property that was realisable property, it may order compensation to be paid to the applicant if –
 - (i) it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order or instrumentalities forfeiture order, and
 - (ii) having regard to all the circumstances of the case, the Court considers it to be appropriate.⁹²
- (6) The amount of compensation to be paid under this Article shall be such as the Court considers just in all the circumstances of the case.
- (7) Provision may be made by Rules of Court for –
 - (a) the giving of notice of any application under this Article; and
 - (b) any person appearing to the Court to be likely to be affected by any exercise of its powers under this Article to be given a reasonable opportunity to make representations to the Court.
- (8) Compensation payable under this Article shall be paid out of the annual income of the States.
- (9) No application shall be entertained by the Court under this Article if it is made after the end of the period of 6 years beginning with the date on which the confiscation order or instrumentalities forfeiture order was made.⁹³

28A Enforcement of confiscation orders or instrumentalities forfeiture orders in a country or territory outside Jersey⁹⁴

- (1) The States may by Regulations –
 - (a) make such provision in connection with the taking of action in a country or territory outside Jersey with a view to satisfying a confiscation order or instrumentalities forfeiture order as appears to the States to be necessary or expedient;

- (b) without prejudice to the generality of sub-paragraph (a), direct that, in such circumstances as may be specified in the Regulations, proceeds which arise out of action taken in a country or territory outside Jersey with a view to satisfying a confiscation order or instrumentalities forfeiture order, and which are retained there shall nevertheless be treated as reducing the amount payable or the value of property forfeited under the order to such extent as may be specified in the Regulations.⁹⁵
- (2) Without prejudice to the generality of paragraph (1), Regulations made under it may make –
- (a) such provision as to the evidence or proof of any matter for the purposes of such Regulations; and
 - (b) such incidental, consequential and transitional provision, as appears to the States to be necessary or expedient.

28B Instrumentalities forfeiture orders⁹⁶

- (1) Where a defendant appears before the Court to be sentenced in respect of an offence specified in Schedule 1, the Attorney General may apply for and the Court may make an instrumentalities forfeiture order.
- (2) This Article applies only to offences committed after it comes into force.
- (3) An instrumentalities forfeiture order is an order for the forfeiture of –
- (a) property used in or intended to be used in the offence for which the defendant has been convicted;
 - (b) where the offence is one under Article 30 or 31 or an attempt or conspiracy to commit such an offence, property used in or intended to be used in any predicate conduct that occurred in Jersey;
 - (c) property into which property described in sub-paragraph (a) or (b) has been converted (whether in a single, in multiple or in a series of consecutive transactions); or
 - (d) a sum of money of equivalent value to the value of the property described in sub-paragraph (a) or (b) at the time the offence or conduct, as the case may be, occurred, adjusted to take account of subsequent changes in the value of money,
- if, or to the extent that, any order of a kind described in sub-paragraphs (a) to (d) would not be disproportionate.
- (4) When considering whether the proposed order under paragraph (3) would be disproportionate, without limiting the factors that the Court may consider, the Court must take into account –
- (a) the defendant's means;
 - (b) any gift caught by this Part; and
 - (c) any civil proceedings instituted or intended to be instituted against the defendant by a victim of the offence or the defendant's predicate conduct in respect of loss or damage sustained in connection with the offence or conduct.

- (5) The Court may proceed under both Article 3 (including by applying Article 5) and this Article in respect of the same offence but, where it is considering doing so, the following rules apply –
- (a) the Court must proceed under this Article before proceeding under Article 3;
 - (b) if the Court makes an instrumentalities forfeiture order, it must only proceed under Article 3 (whether by reason of Article 3(1) or Articles 9, 12, 13 or 14) if, or to the extent that –
 - (i) an order under Article 3 would not lead to the same property (or its value) being taken into account in calculating the amount in respect of which the confiscation order made as was taken into account in calculating the value of the property in respect of which the instrumentalities forfeiture order is made, and
 - (ii) the making of a confiscation order in addition to an instrumentalities forfeiture order would not be disproportionate.
- (6) Where –
- (a) by reason of paragraph (4)(a), the Court has decided that it will not make an instrumentalities forfeiture order or has decided to reduce the amount of the instrumentalities forfeiture order it would otherwise have made; and
 - (b) the Attorney General subsequently becomes aware that the defendant’s ability to pay an instrumentalities forfeiture order has increased (whether by means of the discovery of or subsequent acquisition of property),
- the Attorney General may apply to the Court for the decision under paragraphs (1) and (3) to be reconsidered.
- (7) If the Attorney General makes an application under paragraph (6) at the same time as proceeding under Article 19, the Court
- (a) must first consider the application under paragraph (6); and
 - (b) may only make an order under Article 19 if to do so would not be disproportionate.
- (8) Where the Court makes an instrumentalities forfeiture order –
- (a) it must take account of the order before –
 - (i) imposing any fine on the defendant,
 - (ii) making any order involving any payment by the defendant, or
 - (iii) making any forfeiture order under Article 29 of the [Misuse of Drugs \(Jersey\) Law 1978](#), Article 27 of the [Terrorism \(Jersey\) Law 2002](#) or Part 3 of the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#); and
 - (b) subject to sub-paragraph (a), it must leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant in the proceedings.
- (9) Where the Court makes an instrumentalities forfeiture order (whether with or without a confiscation order) the Court, instead of making an order under the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#), may make such orders as it considers appropriate for payment of the value of property due under the instrumentalities

forfeiture order and any confiscation order to compensate victims of the offence or the predicate conduct for any loss or damage caused by that offence or conduct.

- (10) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with the offender also in any other way restricts, by reason only of the making of an order under this Article, the Court from dealing with an offender in any way that the Court considers appropriate in respect of an offence described in paragraph (1).
- (11) The standard of proof on any contested issue of fact that arises in the course of considering an application for an instrumentalities forfeiture order is that which is applicable in civil proceedings.

PART 3

MONEY LAUNDERING

29 Criminal property⁹⁷

- (1) For the purposes of this Part –
“criminal property” includes –
 - (a) any property derived from or obtained, in whole or in part, directly or indirectly, through criminal conduct, if the alleged offender knows or suspects that the property is derived from or obtained, directly or indirectly, through criminal conduct; and
 - (b) any property that is used in, or intended to be used in, criminal conduct, if the alleged offender knows or suspects that the property is used in, or is intended to be used in, criminal conduct.⁹⁸
- (2) For such purposes it does not matter –
 - (a) whether the criminal conduct was conduct of the alleged offender or of another person;
 - (b) whether the person who benefited from the criminal conduct was the alleged offender or another person; nor
 - (c) whether the criminal conduct occurred before or after the coming into force of this provision.

30 Offences of dealing with criminal property⁹⁹

- (1) A person who –
 - (a) acquires criminal property;
 - (b) uses criminal property; or
 - (c) has possession or control of criminal property,is guilty of an offence.
- (2) For the purposes of paragraph (1) –

- (a) having possession or control of property includes doing an act in relation to the property; and
 - (b) it does not matter whether the acquisition, use, possession or control is for the person's own benefit or for the benefit of another.
- (3) A person who –
- (a) enters into or becomes concerned in an arrangement; and
 - (b) knows or suspects that the arrangement facilitates, by any means, the acquisition, use, possession or control of criminal property by or on behalf of another person,
- is guilty of an offence.
- (4) A person who is guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 14 years or to a fine, or both.
- (5) A person shall not be guilty of an offence under this Article in respect of anything done by the person in carrying out any function relating to 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 or instrumentalities.¹⁰⁰
- (6) Subject to paragraph (7), a person shall not be guilty of an offence under paragraph (1) if the person acquired, used, possessed or controlled the property for adequate consideration.
- (7) The defence of adequate consideration in paragraph (6) shall not be available where –
- (a) property or services provided to a person assist that person in criminal conduct;
 - (b) a person providing property or services to another person knows, suspects, or has reasonable grounds to suspect that the property or services will or may assist the other person in criminal conduct; or
 - (c) the value of the consideration is significantly less than the value of the property acquired or, as the case may be, the value of its use or possession.
- (8) No prosecution shall be instituted for an offence under this Article without the consent of the Attorney General.

31 Concealment etc. of criminal property¹⁰¹

- (1) A person who –
- (a) conceals criminal property;
 - (b) disguises criminal property;
 - (c) converts or transfers criminal property; or
 - (d) removes criminal property from Jersey,
- is guilty of an offence.
- (2) In paragraph (1), reference to concealing or disguising property includes reference to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

- (3) A person who is guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 14 years or to a fine or to both.
- (4) A person shall not be guilty of an offence under this Article in respect of anything done by the person in carrying out any function relating to 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 or instrumentalities.¹⁰²
- (5) Without prejudice to any provision in the preceding paragraphs of this Article, the importation or exportation for any purpose of criminal property which constitutes or represents the proceeds of drug trafficking or instrumentalities of drug trafficking is prohibited.¹⁰³
- (6) No prosecution shall be instituted for an offence under this Article without the consent of the Attorney General.

32 Protection for disclosures, and defence of intended disclosure¹⁰⁴

- (1) Paragraphs (2) and (3) apply where a person makes a disclosure to the FIU –
 - (a) of a suspicion or belief that any property constitutes or represents proceeds of criminal conduct or property used in or intended to be used in criminal conduct and of any matter on which such suspicion or belief is based; or
 - (b) of information, for the purposes of a criminal investigation or criminal proceedings in Jersey.¹⁰⁵
- (2) The disclosure –
 - (a) shall not be treated as a breach of any restriction upon the disclosure of information imposed by any enactment or contract or otherwise; and
 - (b) shall not involve the person making it in liability of any kind.
- (3) Where the person making the disclosure does any act, or deals with the property in any way which apart from this provision would amount to the commission of an offence under Article 30 or 31, the person shall not be guilty of such an offence if the conditions set out in paragraph (4) are fulfilled.
- (4) The conditions mentioned in paragraph (3) are that the disclosure is made in good faith and either –
 - (a) if the disclosure is made before the person does the act in question, the act is done with the consent of the FIU; or
 - (b) if the disclosure is made after the person does the act in question, it is made on the person's own initiative and as soon as reasonably practicable after the person has done the act in question.¹⁰⁶
- (5) In the case of a person ("P") who was in employment at the time of making the disclosure, a disclosure by P to an appropriate person shall be treated as though it were a disclosure to the FIU, and paragraphs (1) to (3) shall have effect as though references to the FIU were references to the appropriate person.¹⁰⁷
- (6) In paragraph (5) and in Article 34B, the "appropriate person" is the person designated by P's employer in accordance with the procedure established by the employer for such disclosures to be made.

- (7) In proceedings against a person for an offence under Article 30, it shall be a defence to prove that –
- (a) the alleged offender intended to disclose, to the FIU, the suspicion or belief that property constitutes or represents proceeds of criminal conduct or property used in or intended to be used in criminal conduct; and
 - (b) there is reasonable excuse for the alleged offender's failure to make such a disclosure.¹⁰⁸

33 Restrictions on further disclosure¹⁰⁹

- (1) Information that is disclosed –
- (a) to the FIU under Article 32, 34A or 34D or any Order made under Article 37,
 - (b)
- shall not be disclosed by the FIU or by any person who obtains information directly or indirectly from the FIU, unless such further disclosure is permitted by Article 34.¹¹⁰
- (2) A person who discloses information in contravention of paragraph (1) is guilty of an offence and shall be liable to imprisonment for a term of 6 months and to a fine.¹¹¹
- (3) In proceedings against a person for an offence under this Article, it shall be a defence to prove that the person took all reasonable steps and exercised due diligence to avoid committing the offence.
- (4) No prosecution shall be instituted for an offence under this Article without the consent of the Attorney General.

34 Further disclosure permitted for certain purposes¹¹²

- (1) Article 33 does not prohibit the disclosure of information –
- (a) to a person in Jersey for the purposes of a criminal investigation or criminal proceedings in Jersey; or
 - (b) for other purposes in Jersey; to –
 - (i) the Attorney General,
 - (ii) the Financial Services Commission,
 - (iii) a police officer,
 - (iiia) the FIU, or
 - (iv)
 - (v) any supervisory body designated as such under Article 6 of the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#).¹¹³
- (2) Article 33 does not prohibit the disclosure of information –
- (a) for the purposes of the investigation of crime outside Jersey or of criminal proceedings outside Jersey; or
 - (b) to a competent authority outside Jersey.¹¹⁴
- (3) ¹¹⁵

(4) ¹¹⁶

(5) ¹¹⁷

34A Failure to disclose knowledge or suspicion of money laundering¹¹⁸

- (1) This Article applies where –
- (a) a person (“A”) knows or suspects that another person is engaged in money laundering; and
 - (b) the information or other matter on which that knowledge or suspicion is based comes to A’s attention in the course of A’s trade, profession, business or employment.¹¹⁹
- (1A) Where this Article applies, A must disclose, in accordance with the conditions set out in paragraph (1B) –
- (a) the knowledge or suspicion mentioned in paragraph (1)(a); and
 - (b) the information or other matter mentioned in paragraph (1)(b),
- and if A does not make such a disclosure, A commits an offence.¹²⁰
- (1B) The conditions mentioned in paragraph (1A) are that the disclosure is made –
- (a) to the FIU;
 - (b) in good faith; and
 - (c) as soon as is practicable after the information or other matter came to A’s attention.¹²¹
- (2) It is not an offence under this Article for a professional legal adviser to fail to disclose any information or other matter that comes to him or her in circumstances of legal privilege.
- (3) Where a person discloses to the FIU in good faith –
- (a) the person’s suspicion or belief that another person is engaged in money laundering; or
 - (b) any information or other matter on which that suspicion or belief is based,
- the disclosure shall not be treated as a breach of any restriction imposed by statute, contract or otherwise.¹²²
- (4) A person who is guilty of an offence under this Article is liable to imprisonment for a term not exceeding 5 years or to a fine or to both.

34B Statutory defences¹²³

- (1) It is a defence to a charge of committing an offence under Article 34A that the person charged had a reasonable excuse for not disclosing the information or other matter in question.
- (2) In the case of a person who was in employment at the relevant time, it is a defence to a charge of committing an offence under Article 34A that the person disclosed the information or other matter in question to the appropriate person in accordance with the procedure established by the person’s employer for the making of such disclosures.

- (3) A disclosure to which paragraph (2) applies shall not be treated as a breach of any restriction imposed by statute, contract or otherwise.

34C Cases to which Article 34A does not apply¹²⁴

- (1) Article 34A does not apply to information or other matter that comes to a person, as an employer or employee, in the course of the carrying on of a financial services business.
- (2) Article 34A does not apply –
- (a) to any person designated by Regulations made by the States for the purposes of this Article; or
 - (b) in such circumstances as may be specified, to any person who falls within such category of person as may be specified in Regulations made by the States for the purposes of this Article.
- (3) Regulations made for the purposes of this Article may designate any person appearing to the States to be performing regulatory, supervisory, investigative or registration functions.
- (4) The categories of person specified in Regulations made for the purposes of this Article shall be such categories of person connected with the performance by any designated person of regulatory, supervisory, investigative or registration functions.

34D Failure in a financial institution to report to the FIU or nominated officer^{125 126}

- (1) This Article applies where the conditions in both paragraph (2) and paragraph (3) are fulfilled.¹²⁷
- (2) The first condition is that a person (“A”) knows, suspects or has reasonable grounds for suspecting that –
- (a) another person is engaged in money laundering;
 - (b) any property constitutes or represents proceeds of criminal conduct; or
 - (c) any property has been, is being or is intended to be used in criminal conduct.¹²⁸
- (3) The second condition is that the information or other matter on which A’s knowledge or suspicion is based, or which gives reasonable grounds for such suspicion, came to A in the course of the carrying on of a financial services business.¹²⁹
- (4) Where this Article applies, A must disclose, in accordance with the conditions set out in paragraph (4A) –
- (a) the knowledge, suspicion or grounds for suspicion mentioned in paragraph (2); and
 - (b) the information or other matter mentioned in paragraph (3),
and if A does not make such a disclosure, A commits an offence.¹³⁰
- (4A) The conditions mentioned in paragraph (4) are that the disclosure is made –
- (a) to the FIU or a nominated officer;
 - (b) in good faith; and
 - (c) as soon as is practicable after the information or other matter comes to A.¹³¹

- (5) A person does not commit an offence under this Article if –
- (a) the person has a reasonable excuse for not disclosing the information or other matter; or
 - (b) the person is a professional legal adviser and the information or other matter comes to him or her in circumstances of legal privilege.
- (6) A person does not commit an offence under this Article by failing to disclose any information or other matter that has come to his or her attention, if –
- (a) it comes to the person in the course of his or her employment in the financial services business;
 - (b) the person carrying on the financial services business was required by an Order made under Article 37 to provide the employee with training, but had not done so;
 - (c) the training, if it had been given, would have been material; and
 - (d) the employee does not know or suspect that the other person concerned is engaged in money laundering.
- (7) In deciding whether a person has committed an offence under this Article, the court –
- (a) shall take account of any relevant Code of Practice or guidance that applies to that person or the business carried on by that person and is issued by the supervisory body exercising supervisory functions in respect of that person; or
 - (b) if no such Code of Practice or guidance applies, shall take into account any relevant Code of Practice or guidance that is issued by another supervisory body; or
 - (c) if there is no such relevant Code of Practice or guidance, may take account of any other relevant guidance issued by a body that is representative of that person or any Schedule 2 business carried on by that person.¹³²
- (7A) For the purposes of paragraph (7), “Code of Practice”, “Schedule 2 business”, “supervisory body” and “supervisory functions” have the same meaning as in the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#).¹³³
- (8) A disclosure to a nominated officer is a disclosure which –
- (a) is made to a person nominated by the employer of the person making the disclosure to receive disclosures under this Article; and
 - (b) is made in the course of the discloser’s employment and in accordance with the procedure established by the employer for the purpose.
- (9) Where a person to whom paragraph (1) refers discloses in good faith to the FIU or a nominated officer –
- (a) the person’s suspicion or belief that another person is engaged in money laundering; or
 - (b) any information or other matter on which that suspicion or belief is based, the disclosure shall not be treated as a breach of any restriction imposed by statute, contract or otherwise.¹³⁴
- (10) A person who is guilty of an offence under this Article is liable to imprisonment for a term not exceeding 5 years or to a fine or to both.

34E ¹³⁵**35 Tipping off and interference with material**¹³⁶

- (1) Paragraph (2) applies where a person knows or suspects that the Attorney General or any police officer is acting or proposing to act in connection with an investigation that is being or is about to be conducted into money laundering.
- (2) 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.
- (3) Paragraph (4) applies where a person knows or suspects that a disclosure –
 - (a) under Article 32; or
 - (b) to which Article 34A(3) or Article 34D(9) applies,has been or will be made.
- (4) It is an offence for the person –
 - (a) to disclose to another person –
 - (i) the fact that such a disclosure has been or will be made, or
 - (ii) any information otherwise relating to such a disclosure;or
 - (b) to interfere with material which is likely to be relevant to an investigation resulting from such a disclosure.
- (5) The States may by Regulations specify cases in which a disclosure or interference to which paragraph (2) or (4) would otherwise apply shall not amount to the commission of an offence.
- (6) Paragraphs (2) and (4) do 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 sub-paragraph (a)(i) or (ii); or
 - (c) is made by a person who is the client of an accountant to that accountant for the purpose of enabling him or her to provide any of the services listed in paragraph 22(3) of Schedule 2,and is not made with a view to furthering a criminal purpose.¹³⁷
- (7) For the purposes of paragraphs (2) and (4), interference with material includes falsifying, concealing, destroying or disposing of the material or part of it.
- (8) A person shall not be guilty of an offence under paragraph (2) or (4) 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 or instrumentalities.¹³⁸

- (9) A person who is guilty of an offence under this Article is liable to imprisonment for a term not exceeding 5 years or to a fine, or both.
- (10) No prosecution shall be instituted for an offence under this Article without the consent of the Attorney General.

35A Failure to prevent money laundering¹³⁹

- (1) A financial services business (B) commits an offence, and is liable –
 - (a) if B is a body corporate, to a fine; or
 - (b) if B is not a body corporate, to imprisonment for a term not exceeding 2 years or to a fine or to both,if a person is engaged in money laundering when acting in the capacity of a person associated with B.
- (2) It is a defence for B to prove that when the money laundering occurred B adequately maintained and applied prevention procedures in relation to the activities of the person associated with B.
- (3) A person is engaged in money laundering if the person engages in conduct which constitutes money laundering, whether or not the person has been convicted of an offence in relation to that conduct.
- (4) A person acts in the capacity of a person associated with B if that person is –
 - (a) an employee of B who is acting in the capacity of an employee;
 - (b) an agent of B (other than an employee) who is acting in the capacity of an agent;
 - (c) any other person who performs services for or on behalf of B who is acting in the capacity of a person performing such services; or
 - (d) a customer of B, or an agent of a customer of B, in relation to any service performed by or on behalf of B.
- (5) In paragraph (2) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B being engaged in money laundering.
- (6) In determining whether B has adequately maintained and applied prevention procedures in relation to the activities of the person associated with B, the Court –
 - (a) may take account of any relevant Code of Practice or guidance that applies to B and is issued by the supervisory body exercising supervisory functions in respect of B; or
 - (b) if no such Code of Practice or guidance applies, may take into account any relevant Code of Practice or guidance that is issued by another supervisory body; or
 - (c) if there is no such relevant Code of Practice or guidance, may take account of any other relevant guidance issued by a body that is representative of B or any Schedule 2 business that is carried on by B.¹⁴⁰

- (7) For the purposes of paragraph (4)(c) the question whether or not the person is a person who performs services for or on behalf of B is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between that person and B.
- (8) In paragraph (4)(d) “customer” has the same meaning as in Schedule 3.
- (9) For the purposes of paragraph (6), “Code of Practice”, “Schedule 2 business”, “supervisory body” and “supervisory functions” have the same meaning as in the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#).¹⁴¹

36 Financial services business¹⁴²

- (1) Parts 1, 2, 3 and 4 of Schedule 2 specify the activities and operations which when conducted as a business constitute financial services business for the purposes of this Law.¹⁴³
- (1A) Part 5 of Schedule 2 specifies activities and operations which, in addition to those referred to in paragraph (1), constitute financial services business.¹⁴⁴
- (2) The Commission may issue guidelines on the interpretation of the expression “when conducted as a business” in paragraph (1) or any provision in Schedule 2, including any expression used in Schedule 2.¹⁴⁵
- (3) Regard must be given to any guidelines issued under paragraph (2) concerning the interpretation of any expression in Schedule 2.
- (4) Guidelines issued under paragraph (2) must be published by the Commission in a manner which the Commission considers will bring it to the attention of those most likely to be affected by it.
- (5) In interpreting an expression used in Schedule 2, account must be taken of the meaning, if any, given to that expression in –
 - (a) the FATF International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation – the FATF Recommendations as updated from time to time; or
 - (b) the FATF Methodology for Assessing Technical Compliance with the FATF Recommendations and Effective of AML/CFT Systems, as updated from time to time.
- (6) The States may, by Regulations amend Schedule 2 by adding, deleting, substituting or varying the description of any operation or activity.
- (7) The Minister for External Relations may, by Order –
 - (a) designate any operation or activity as a low risk financial services business;
 - (b) provide conditions relating to the designation of any operation or activity as a low risk financial services business;
 - (c) apply, disapply or modify a provision of this Law or any other enactment in relation to the low risk financial services business, including to provide for notification obligations on persons conducting any operation or activity designated as a low risk financial services business under paragraph (a).¹⁴⁶

37 Procedures to prevent and detect money laundering¹⁴⁷

- (1) The Minister for External Relations, by Order, for the purposes of preventing and detecting money laundering –
- (a) must prescribe measures to be taken (including measures not to be taken) by persons who carry on financial services business;
 - (b) may prescribe measures to be taken (including measures not to be taken) by persons, acting as trustees, who do not fall under sub-paragraph (a); and
 - (c) may prescribe measures to be taken (including measures not to be taken) by persons or categories of persons appointed for the purpose of fulfilling the obligations prescribed in respect of the persons referred to under sub-paragraph (a).¹⁴⁸
- (1A) Without prejudice to the generality of paragraph (1), such measures may include –
- (a) identification procedures;
 - (b) record keeping procedures;
 - (c) internal reporting procedures; and
 - (d) training procedures,
- to be maintained by persons subject to the measures mentioned in paragraph (1)(a) or (b).¹⁴⁹
- (2) An Order made under this Article –
- (a) may specify supervisory authorities for the purposes of the Order;
 - (b) may authorize or require any person who acquires information in the course of the application of any procedure under any such Order, or in the course of carrying out any function under any such Order, or under any other enactment to which the Order refers, to disclose that information to the FIU, the Commission or any person or institution with whom that person shares common ownership, management or compliance control; and
 - (c) may make such other provision as is reasonably necessary or incidental to the purposes of the Order.¹⁵⁰
- (3) No disclosure in accordance with an Order made under this Article to any person mentioned in paragraph (2)(b) shall be treated as a breach of any restriction on disclosure imposed by any enactment or contract or otherwise or involve the person making it in liability of any kind.¹⁵¹
- (4) If a person subject to the measures mentioned in paragraph (1)(a) or (b) contravenes or fails to comply with a requirement that is contained in any Order made under this Article and applies to that person, the person shall be guilty of an offence.¹⁵²
- (5) ¹⁵³
- (6) ¹⁵⁴
- (7) Any person who is guilty of an offence under this Article is liable –
- (a) if the person is a body corporate, to a fine; or
 - (b) if the person is not a body corporate, to imprisonment for a term not exceeding 2 years or to a fine or to both.

- (8) In determining whether a person has complied with a requirement that is contained in any Order made under this Article, the court –
- (a) shall take account of any relevant Code of Practice or guidance that applies to that person or the business carried on by that person and is issued by the supervisory body exercising supervisory functions in respect of that person; or
 - (b) if no such Code of Practice or guidance applies, shall take into account any relevant Code of Practice or guidance that is issued by another supervisory body; or
 - (c) if there is no such relevant Code of Practice or guidance, may take account of any other relevant guidance issued by a body that is representative of that person or any Schedule 2 business carried on by that person.¹⁵⁵
- (9) For the purposes of paragraph (8), “Code of Practice”; “supervisory body”, “supervisory functions” and “Schedule 2 business” have the same meaning as in the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#).¹⁵⁶
- (10) In proceedings against a person for an offence under this Article, it is a defence to prove that the person took all reasonable steps and exercised due diligence to avoid committing the offence.
- (10A) Where an anti-money laundering service provider is appointed, in considering a defence under paragraph 10 in respect of a financial services business, the court must have regard to the reasonableness of –
- (a) the appointment of the anti-money laundering services provider in respect of the financial services business, including the terms and conditions of the appointment; and
 - (b) the oversight of the anti-money laundering services provider by the relevant person.¹⁵⁷
- (11) For the purposes of this Article, “money laundering” includes, in addition to the matters comprised in the definition of that term in Article 1(1) –
- (a) conduct that is an offence under any of the following provisions –
 - (i) Articles 34A and 34D of this Law,
 - (ii) any provision of the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#), or
 - (iii) any provision of an Order under Article 3 of that Law;
 - (b) conduct outside Jersey which, if occurring in Jersey, would be an offence specified in sub-paragraph (a).¹⁵⁸

PART 4

EXTERNAL CONFISCATION ORDERS

38 Recognition of external confiscation orders¹⁵⁹

- (1) The States may by Regulations direct that, subject to such modifications as may be specified in the Regulations, this Law shall apply to –

- (a) external confiscation orders; and
 - (b) criminal investigations or proceedings begun in a country or territory outside Jersey which may result in an external confiscation order being made there.¹⁶⁰
- (2) Without prejudice to the generality of paragraph (1), Regulations made under it may make –
- (a) such provision as to the evidence or proof of any matter for the purposes of such Regulations and Article 39; and
 - (b) such incidental, consequential and transitional provision, as appears to the States to be necessary or expedient.

39 Registration of external confiscation orders

- (1) On the application of the Attorney General, the Court may register an external confiscation order if –
- (a) the Court is satisfied that at the time of registration the order is in force and is not subject to appeal;
 - (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that the person received notice of the proceedings in sufficient time to enable the person to defend them; and
 - (c) it is of the opinion that enforcing the order in Jersey would not be contrary to the interests of justice.¹⁶¹
- (2) In paragraph (1), “appeal” includes –
- (a) any proceedings by way of discharging or setting aside a judgment; and
 - (b) an application for a new trial or a stay of execution.
- (3) The Court shall cancel the registration of an external confiscation order if it appears to the Court that the order has been satisfied by the payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

PART 5

MISCELLANEOUS

39A Offences by bodies corporate and others¹⁶²

- (1) In this Article –
- “relevant offence” means an offence under this Law or any Order made under it that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
- “relevant person” means –
- (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;

- (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;
- (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
 - (i) a director, manager, secretary, statutory officer or other similar officer of the body corporate, and
 - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member's functions of management; and
- (d) a person purporting to act in any capacity described in sub-paragraphs (a) to (c) in relation to the partnership or body that commits the relevant offence;

“statutory officer” means any person who is required to be appointed by a financial services business under an Order made under Article 37.

- (2) If the relevant offence is proved to have been committed by a financial services business with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the financial services business to the penalty provided for that offence.

40 Investigations relating to proceeds of criminal conduct or instrumentalities¹⁶³

- (1) A police officer may apply to the Bailiff for an order under paragraph (2) in relation to particular material or material of a particular description for the purposes of an investigation into –
 - (a) whether any person has benefited from any criminal conduct, or whether any property has been, is being or is intended to be used in criminal conduct; or
 - (b) the extent or whereabouts of the proceeds of any criminal conduct or instrumentalities.¹⁶⁴
- (2) If, on such an application, the Bailiff is satisfied that the conditions in paragraph (4) are fulfilled, the Bailiff may make an order that the person who appears to be in possession of the material to which the application relates shall –
 - (a) produce it to a police officer for the police officer to take away; or
 - (b) give a police officer access to it and, if so required by the police officer, permit him or her to make copies of it,within such period as the order may specify.
- (3) The period to be specified in an order under paragraph (2) 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.
- (4) The conditions to which paragraph (2) refers are –
 - (a) that there are reasonable grounds for suspecting that a specified person has benefited from any criminal conduct or has used, is using or intends to use property in criminal conduct;

- (b) that there are reasonable grounds for suspecting that the material to which the application relates –
 - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the application is made, and
 - (ii) does not consist of or include items subject to legal privilege; 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 obtained, and
 - (ii) to the circumstances under which the person in possession of the material holds it.¹⁶⁵
- (5) Where the Bailiff makes an order under paragraph (2) giving a police officer access to material on any premises the Bailiff may, on the application of a police officer, order any person who appears to the Bailiff to be entitled to grant entry to the premises to allow a police officer to enter the premises to obtain access to the material.
- (6) An application under paragraph (1) or (5) may be made *ex parte* to the Bailiff in chambers.
- (7) An application for the discharge or variation of an order under this Article 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) Where the material to which an application under paragraph (1) relates consists of information contained in a computer –
 - (a) an order under paragraph (2) to produce material to a police officer for the police 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 (2) giving a police 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.
- (9) An order under paragraph (2) –
 - (a) shall not confer any right to production of, or access to, items subject to legal privilege;
 - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any statute or contract or otherwise; and
 - (c) may be made in relation to material in the possession of a States department.
- (10) ¹⁶⁶
- (11) Provision may be made by Rules of Court as to –
 - (a) the manner in which applications may be made under this Article;
 - (b) the discharge and variation of orders under this Article; and

- (c) proceedings related to orders under this Article.¹⁶⁷
- (12) A person who, without reasonable excuse –
 - (a) fails to comply with an order under this Article; or
 - (b) obstructs a police officer who is acting or attempting to act in pursuance of such an order,is guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine or to both.
- (13) If a person –
 - (a) knows or suspects that an investigation to which paragraph (1) refers is being or is likely to be carried out; and
 - (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of material that the person knows or suspects is or would be relevant to such an investigation,the person shall be guilty of an offence and liable to imprisonment for 7 years or to a fine or to both, unless the person proves that the act or omission was inadvertent.

41 Authority for search

- (1) A police officer may apply to the Bailiff for a warrant under this Article in relation to specified premises for the purposes of an investigation into –
 - (a) whether any person has benefited from any criminal conduct, or whether any property has been, is being or is intended to be used in criminal conduct; or
 - (b) the extent or whereabouts of the proceeds of any criminal conduct or instrumentalities.¹⁶⁸
- (2) On such an application, the Bailiff may issue a warrant authorising a police 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 –
 - (a) that an order made under Article 40 in relation to material on the premises has not been complied with;
 - (b) that the conditions in paragraph (3) are fulfilled; or
 - (c) that the conditions in paragraph (4) are fulfilled.¹⁶⁹
- (3) The conditions to which paragraph (2)(b) refers are –
 - (a) that there are reasonable grounds for suspecting that a specified person has benefited from criminal conduct or has used, is using or intends to use property in criminal conduct;
 - (b) that the conditions in Article 40(4)(b) and (c) are fulfilled in relation to any material on the premises; and
 - (c) that it would not be appropriate to make an order under Article 40 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 entitled to grant entry to the premises on which the material is situated, or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer could secure immediate access to the material.¹⁷⁰
- (4) The conditions to which paragraph (2)(c) refers are –
 - (a) that there are reasonable grounds for suspecting that a specified person has benefited from any criminal conduct;
 - (b) that there are reasonable grounds for suspecting that there is on the premises any such material relating –
 - (i) to the specified person, or
 - (ii) to the question whether a person has benefited from any criminal conduct or has used, is using or intends to use property in criminal conduct or to any question as to the extent or whereabouts of the proceeds of any criminal conduct or instrumentalities,as is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the application is made, but that the material cannot at the time of the application be particularised; and
 - (c) that –
 - (i) it is not practicable to communicate with any person entitled to grant entry to the premises,
 - (ii) entry to the premises will not be granted unless a warrant is produced, or
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer arriving at the premises could secure immediate entry to them.¹⁷¹
- (5) Where a police officer has entered premises in the execution of a warrant issued under this Article, the police officer may seize and retain any material, other than items subject to legal privilege, that is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purposes of which the warrant was issued.
- (6) ¹⁷²
- (7) A person who, without reasonable excuse, obstructs a police officer who is executing or attempting to execute a warrant issued under this Article is guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine or to both.

41A Financial information and monitoring¹⁷³

- (1) Part 1 of Schedule 3 shall have effect in respect of the obtaining of financial information.
- (2) Part 2 of Schedule 3 shall have effect in respect of account monitoring orders.

41B Financial intelligence gathering etc.¹⁷⁴

- (1) The States may by Regulations prescribe that there shall be a body (a “financial intelligence unit”) to carry out functions of gathering, analysing and transmitting financial information, in accordance with and as further provided by such Regulations.
- (2) Without derogation from the generality of Article 42A or of paragraph (1) of this Article, Regulations made for the purpose mentioned in that paragraph may, in particular –
 - (a) designate an existing body, or establish a new body, to be a financial intelligence unit;
 - (b) specify more precisely the functions of the financial intelligence unit;
 - (c) make provision as to its operation and resources and as to the appointment and employment of its officers;
 - (d) confer powers on the financial intelligence unit to require the provision of financial information from such persons as may be specified in the Regulations and in such manner and at such times as the financial information unit may reasonably determine;
 - (e) specify more precisely the nature of the financial information which may be so sought;
 - (f) specify more precisely the persons to whom the financial information may be transmitted; and
 - (g) create offences for failure to comply with a requirement of the Regulations and impose penalties for such offences.
- (3) The power to make consequential provision conferred by Article 42A(2) may be exercised, in Regulations made for the purpose mentioned in paragraph (1), so as to further amend this Law or any other enactment.

42¹⁷⁵**42A Regulations**¹⁷⁶

- (1) The States may make Regulations not inconsistent with this Law, for or with respect to any matter that by this Law is required or permitted to be prescribed by Regulations or that is necessary or convenient to be prescribed by Regulations for carrying out or giving effect to this Law.
- (2) Regulations made under this Law may contain such transitional, consequential, incidental or supplementary provisions, or such savings, as appear to the States to be necessary or expedient for the purposes of the Regulations.

43 Orders

- (1) The Minister for External Relations shall consult the Commission before making any Order under this Law.¹⁷⁷
- (2)¹⁷⁸

44 Rules of Court

The power of the Superior Number of the Royal Court to make Rules of Court under the [Royal Court \(Jersey\) Law 1948](#) includes a power to make Rules for the purposes of this Law and, in particular, for the purposes of Articles 7(11), 8(4) and (7), 18(3), 21(5), 26(4), 27(5), 28(7), 40(11) and 41A and Schedule 3.¹⁷⁹

44A Consequential and transitional provisions in connection with commencement of Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022¹⁸⁰

The States may, by Regulations –

- (a) make any consequential and transitional provisions;
- (b) make amendments to this Law or any other enactment,

that appear necessary or expedient in connection with the coming into force of the Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022.

45 Citation

This Law may be cited as the Proceeds of Crime (Jersey) Law 1999.

SCHEDULE 1¹⁸¹

(Articles 1(1), 3(1), (6), (9), 5(2)(a), (5)(a)(ii), (5)(b), 9(1), (3), 12(1), 15(1)(b), (c)(i), (2)(b), (3), 25(1), 28B(1) 34(1), (2) and 35(8))

OFFENCES FOR WHICH CONFISCATION ORDERS OR INSTRUMENTALITIES FORFEITURE ORDERS MAY BE MADE

Any offence in Jersey for which a person is liable on conviction to imprisonment for a term of one or more years (whether or not the person is also liable to any other penalty).

SCHEDULE 2¹⁸²

(Article 36)

FINANCIAL SERVICES BUSINESS**PART 1****PRELIMINARY****1 Interpretation**

In this Schedule –

“fund” means any scheme or arrangement which pools capital raised and operates on the principle of risk spreading; the funds being raised from offers to investors being members of the public, or investors restricted by criteria such as the number of offers, minimum subscription, or the investors’ net worth, level of financial sophistication, risk tolerance or other such criteria;

“securities” means any of the following –

- (a) shares, stock, debentures, debenture stock, loan stock or bonds;
- (b) warrants entitling the holders to subscribe for any securities specified in sub-paragraph (a);
- (c) units in a fund;
- (d) life assurance policies;
- (e) other securities of any description;

“virtual asset” means a digital representation of value that can be digitally traded, or transferred and can be used for payment or investment purposes.

PART 2**FINANCIAL INSTITUTIONS****2 Acceptance of deposits and other repayable funds from public**

- (1) Acceptance of deposits and other repayable funds from the public. This includes private banking.
- (2) Sub-paragraph (1) includes deposit-taking business within the meaning given under Article 3(1), (2) and (3) of the [Banking Business \(Jersey\) Law 1991](#).

3 Lending

- (1) Lending.
- (2) Sub-paragraph (1) includes inter alia: consumer credit, mortgage credit, factoring, with or without recourse; and finance of commercial transactions (including forfeiting).

4 Financial leasing

- (1) Financial Leasing.
- (2) Sub-paragraph (1) does not extend to financial leasing arrangements in relation to consumer products.

5 Money or value transfer services

- (1) Money or value transfer services. This does not apply to any natural or legal person or arrangement that provides financial institutions solely with message or other support systems for transmitting funds.
- (2) Sub-paragraph (1) includes money service business within the meaning given under Article 2(9)(b), (c) and (d) of the [Financial Services \(Jersey\) Law 1998](#).

6 Means of payment

Issuing and managing means of payment (such as credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, and electronic money).

7 Financial guarantees and commitments

Financial guarantees and commitments.

8 Trading

- (1) Trading in –
 - (a) money market instruments (such as cheques, bills, certificates of deposit, derivatives);
 - (b) foreign exchange;
 - (c) exchange, interest rate and index instruments;
 - (d) transferable securities; or
 - (e) futures and options (financial and commodity).
- (2) Sub-paragraph (1) includes investment business within the meaning given under Article 2(2)(a) and (b) of the [Financial Services \(Jersey\) Law 1998](#).
- (3) In this paragraph “trading” includes acting as a principal or agent.

9 Fund and security services activities

- (1) Participation in securities issues and the provision of financial services related to such issues.
- (2) Sub-paragraph (1) includes the following fund and security services activities –
 - (a) fund or issuer of securities; and
 - (b) service providers to a fund or issuer of securities, including acting as manager, administrator, designated service provider, registrar, investment manager, investment adviser, distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent, repurchase agent, trustee, custodian, depositary, manager of a managed entity or a member of a partnership (other than a limited partner).
- (3) Sub-paragraph (1) includes investment business within the meaning given under Article 2(2) of the [Financial Services \(Jersey\) Law 1998](#).

10 Advice on capital structure, industrial strategy etc.

The business of providing advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings.

11 Portfolio management

- (1) Individual and collective portfolio management.
- (2) Sub-paragraph (1) includes –
 - (a) the business of providing portfolio management including the business of providing advice;
 - (b) investment business within the meaning given under Article 2(2) of the [Financial Services \(Jersey\) Law 1998](#);
 - (c) fund and security services activities –
 - (i) fund or issuer of securities, and
 - (ii) service providers to a fund or issuer of securities, including acting as manager, administrator, designated service provider, registrar, investment manager, investment adviser, distributor, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent, repurchase agent, trustee, custodian, depositary, manager of a managed entity or a member of a partnership (other than a limited partner).

12 Safe keeping and administration

- (1) Safekeeping and administration of cash or liquid securities on behalf of other persons.
- (2) Sub-paragraph (1) includes the business of safekeeping and administration of securities in relation to a fund, issuer of securities or other person.

13 Safe custody services

Safe custody services in relation to other persons.

14 Investing, administering or managing funds or money

Investing, administering or managing funds or money on behalf of other persons where such activities are not otherwise listed in this Part.

15 Underwriting and placement of life assurance and insurance

- (1) Underwriting and placement of life insurance and other investment related insurance. This applies both to insurance undertakings and to insurance intermediaries (agents and brokers).
- (2) Sub-paragraph (1) includes –
 - (a) long-term business within the meaning given under Article 1(1) of the [Insurance Business \(Jersey\) Law 1996](#); and
 - (b) investment business within the meaning given by Article 2(2)(a) and (b) of the [Financial Services \(Jersey\) Law 1998](#).

16 Money and currency

- (1) Money and currency changing.
- (2) Sub-paragraph (1) includes money service business within the meaning under Article 2(9)(a) of the [Financial Services \(Jersey\) Law 1998](#) as a bureau de change.

17 Money broking

- (1) Money broking to third parties.
- (2) Sub-paragraph (1) includes the business of providing the service of money broking to third parties.

PART 3**DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS****18 Casinos**

- (1) Casinos (including internet and ship-based casinos).
- (2) Sub-paragraph (1) includes the business of operating a casino.
- (3) For the purposes of this paragraph, a person operates a casino if the person provides a service that –
 - (a) is a gambling service, within the meaning of Article 2 of the [Gambling \(Jersey\) Law 2012](#); and

- (b) consists of giving people an opportunity to participate in one or more casino games.
- (4) For the purposes of this paragraph –
 - “casino” means an arrangement whereby people are given an opportunity to participate in one or more casino games;
 - “casino game” means a game of chance –
 - (a) that involves playing or staking against a bank (whether described as a “bank” and whether or not controlled or administered by a player); and
 - (b) in which the chances are not equally favourable to all participants.

19 Real estate agents

- (1) Real estate agents.
- (2) Sub-paragraph (1) includes the business of providing estate agency services to, for or on behalf of third parties concerning the buying or selling of –
 - (a) freehold (including flying freehold) or leasehold property (including commercial and agricultural property); or
 - (b) shares the ownership of which entitles the owner to occupy immovable property,whether the property is situated in Jersey or overseas.

20 High value dealers

- (1) Dealers in precious metals, precious stones and other goods.
- (2) Sub-paragraph (1) includes the business of providing services as a high value dealer.
- (3) For the purposes of this paragraph, a “high value dealer” is a person who trades in goods (including precious metals and precious stones) and receives in respect of any transaction (whether executed in a single operation, or in several operations which appear to be linked) payment of at least €15,000 (Euros) in total.
- (4) For the purposes of this paragraph –
 - “payment” means payment in or by means of –
 - (a) cash, including notes, coins, travellers’ cheques, and bearer negotiable instruments; and
 - (b) any virtual asset.

21 Lawyers, etc.

- (1) Lawyers, notaries, other independent legal professionals.
- (2) Sub-paragraph (1) refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.

- (3) Sub-paragraph (1) includes the business of providing services by an independent legal professional.
- (4) In this paragraph, “independent legal professional” means a person (including a lawyer or a notary) who provides legal or notarial services to third parties when participating in financial, or immovable property, transactions concerning any of the following –
 - (a) the buying and selling of immovable property or business entities;
 - (b) the buying and selling of shares the ownership of which entitles the owner to occupy immovable property;
 - (c) the managing of client money, securities or other assets;
 - (d) the opening or management of bank, savings or securities accounts;
 - (e) the organisation of contributions necessary for the creation, operation or management of companies; or
 - (f) the creation, operation or management of trusts, companies or similar structures.

22 Accountants

- (1) Accountants.
- (2) Sub-paragraph (1) refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures.
- (3) Sub-paragraph (1) includes the business of providing any of the following –
 - (a) external accountancy services;
 - (b) advice about the tax affairs of another person;
 - (c) audit services;
 - (d) insolvency services;
 - (e) advice to third parties when participating in financial, or immovable property, transactions concerning any of the following –
 - (i) the buying and selling of immovable property or business entities,
 - (ii) the buying and selling of shares the ownership of which entitles the owner to occupy immovable property,
 - (iii) the managing of client money, securities or other assets,
 - (iv) the opening or management of bank, savings or securities accounts,
 - (v) the organisation of contributions necessary for the creation, operation or management of companies, or
 - (vi) the creation, operation or management of trusts, companies or similar structures.
- (4) In this paragraph –

“external accountancy services” means accountancy services provided to third parties and excludes services provided by accountants employed by public authorities or by undertakings which do not provide accountancy services to third parties;

“audit services” are audit services provided pursuant to any function under any enactment;

“insolvency services” are services provided by a person if that person accepts appointment as –

- (a) a liquidator under Chapter 4 of Part 21 of the [Companies \(Jersey\) Law 1991](#);
- (b) an insolvency manager appointed under Part 5 of the [Limited Liability Partnerships \(Jersey\) Law 2017](#) as that Law has effect in its application to insolvent limited liability partnerships under the [Limited Liability Partnerships \(Dissolution and Winding Up\) \(Jersey\) Regulations 2018](#);
- (c) as agent of an official functionary appointed in the case of a remise de biens, cession, or désastre; or
- (d) a liquidator appointed under the [Limited Liability Companies \(Winding Up and Dissolution\) \(Jersey\) Regulations 2022](#).

23 Trust and company service providers

(1) *Formation agent*

- (a) Acting as a formation agent of legal persons or arrangements.
- (b) Clause (a) includes –
 - (i) the business of providing services to or in respect of types of legal person or arrangement other than those described in Article 2(5)(a) and (b) of the [Financial Services \(Jersey\) Law 1998](#), in the course of which services are provided that are similar or equivalent to those described in Article 2(4) of that Law as if Article 2(4) referred to that type of legal person or arrangement, and
 - (ii) trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of –
 - (A) company administration services,
 - (B) services to foundations, or
 - (C) services to partnerships,and in the course of providing those services, the person provides the service of acting as a company formation agent, a partnership formation agent or a foundation formation agent.
- (c) For the purposes of this sub-paragraph, a person acts as a company formation agent, a partnership formation agent or a foundation formation agent if the person arranges for the registration, formation or incorporation, or the sale, transfer or disposal, of companies, partnerships or foundations.
- (d) In this sub-paragraph, a reference to a company, partnership or foundation is a reference to a company, partnership or foundation wherever incorporated or

otherwise established; and to any similar or equivalent structure or arrangement, regardless of its name.

(2) ***Director, secretary, partner, etc.***

- (a) Acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons or arrangements.
- (b) Clause (a) includes a person who carries on trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carrying on the trust company carries on a business that involves the provision of company administration services, the provision of services to foundations, or the provision of services to partnerships and, in the course of providing those services, the person provides the service of –
 - (i) acting as, or fulfilling the function of, or arranging for another person to act as or fulfil the function of, director or alternate director of a company,
 - (ii) acting as, or fulfilling the function of, or arranging for another person to act as, or fulfil the function of a partner of a partnership,
 - (iii) acting as, or fulfilling the function of, or arranging for another person to act as or fulfil the function of, a member of the council of a foundation, or
 - (iv) acting as, or arranging for another person to act as, secretary, alternate, assistant or deputy secretary of a company or a limited liability partnership.
- (c) In this sub-paragraph, a reference to a company, foundation or partnership is a reference to a company, partnership or foundation wherever incorporated or otherwise established; and to any similar or equivalent structure or arrangement, regardless of its name.

(3) ***Registered office, addresses, etc.***

- (a) Providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement.
- (b) Clause (a) includes a person who provides trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of company administration services, trustee or fiduciary services, services to foundations, or services to partnerships and, in the course of providing those services, the person provides –
 - (i) a registered office or business address for a company, a partnership or a foundation,
 - (ii) an accommodation, correspondence or administrative address for a company, a partnership or a foundation or for any other person.
- (c) In this sub-paragraph a reference to a company, trust, partnership or foundation is a reference to –
 - (i) a company, trust, partnership or foundation wherever incorporated or otherwise established, and

- (ii) any similar or equivalent structure or arrangement, regardless of its name.
- (4) ***Trustee of an express trust or equivalent***
- (a) Acting as, or arranging for another person to act as, a trustee of an express trust or performing the equivalent function for another form of legal arrangement.
- (b) Clause (a) includes a person who carries on trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of trustee or fiduciary services and, in the course of providing those services, the person provides the service of acting as or fulfilling or arranging for another person to act as or fulfil the function of trustee of an express trust.
- (c) In this sub-paragraph, a reference to a trust is a reference to a trust wherever established and to any similar or equivalent structure or arrangement, regardless of its name.
- (d) In this sub-paragraph “express trust” has the meaning given to that expression by Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#).
- (5) ***Nominee shareholder***
- (a) Acting as, or arranging for another person to act as, a nominee shareholder for another person.
- (b) Clause (a) includes trust company business under the [Financial Services \(Jersey\) Law 1998](#) where the person carries on a business that involves the provision of company administration services, services to foundations or services to partnerships and, in the course of those services, the person provides the service of acting as or fulfilling or arranging for another person to act as shareholder or unitholder as a nominee for another person.
- (c) In this sub-paragraph, a reference to a company, foundation or partnership is a reference to a company, foundation or partnership wherever incorporated or otherwise established; and to any similar or equivalent structure or arrangement regardless of its name.

PART 4

VIRTUAL ASSET SERVICE PROVIDER

24 Virtual asset service provider

- (1) Virtual asset service provider.
- (2) Sub-paragraph (1) includes a natural or legal person or arrangement that carries on the business of conducting one or more of the following activities or operations to, for or on behalf of another natural or legal person or arrangement –
- (a) exchange between virtual assets and fiat currencies,
- (b) exchange between one or more forms of virtual assets,
- (c) transfer of virtual assets,

- (d) safekeeping or administration of virtual assets or instruments enabling control over virtual assets,
 - (e) participation in and provision of financial services related to an issuer's offer and or sale of a virtual asset.
- (3) In this paragraph "transfer", in relation virtual assets, means to conduct a transaction on behalf of another natural or legal person or arrangement that moves a virtual asset from one virtual asset address or account to another.

PART 5

EXPRESS TRUSTS

25 Express trusts

- (1) Except as otherwise provided in this Schedule, acting as trustee of an express trust.
- (2) In sub-paragraph (1), "express trust" has the same meaning as is given to that expression by Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#).

SCHEDULE 3¹⁸³

(Article 41A)

FINANCIAL INFORMATION AND MONITORING ORDERS**PART 1**¹⁸⁴

(Article 41A(1))

ORDERS FOR PROVISION OF FINANCIAL INFORMATION**1 Order to provide customer information**

- (1) Where an order is made under this Part of this Schedule in relation to an investigation into money laundering a police officer named in the order may require a person carrying on a financial services business to whom the order applies to provide customer information for the purposes of the investigation.
- (2) An order under this Part of this Schedule may provide that it applies to –
 - (a) all persons carrying on a financial services business;
 - (b) a particular description, or particular descriptions, of persons carrying on a financial services business; or
 - (c) a particular person, or particular persons, carrying on a financial services business.
- (3) The information shall be provided –
 - (a) in such manner and within such time as the police officer may specify; and
 - (b) notwithstanding any restriction on the disclosure of information imposed by any statute or contract or otherwise.
- (4) A person carrying on a financial services business who fails to comply with a requirement under this paragraph is guilty of an offence.
- (5) It is a defence for a person carrying on a financial services business who is charged with an offence under sub-paragraph (4) to prove –
 - (a) that the information required was not in the possession of the person carrying on the financial services business; or
 - (b) that it was not reasonably practicable for the person carrying on the financial services business to comply with the requirement.
- (6) A person carrying on a financial services business who is guilty of an offence under sub-paragraph (4) shall be liable to a fine of level 3 on the standard scale.
- (7) Where an individual is convicted of an offence under paragraph 1(4), the individual shall be liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.

2 Who may apply for order

An order under this Part of this Schedule may be made on the application of a police officer of at least the rank of chief inspector or, in the case of an officer of the Impôts, such an officer of at least the rank of assistant director.

3 Who may make order

An order under this Part of this Schedule may be made by the Bailiff.

4 Consent required for application

An application for an order under this Part of this Schedule may only be made with the consent of the Attorney General.

5 Criteria for making order

The Bailiff may only make an order under this Part of this Schedule if satisfied that –

- (a) the order is sought for the purposes of an investigation into money laundering;
- (b) there are reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence;
- (c) there are reasonable grounds for believing that customer information that may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
- (d) there are reasonable grounds for believing that it is in the public interest for the customer information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained, and to the circumstances under which the person in possession of the information holds it.

6 Customer information

- (1) In this Part of this Schedule “customer information” means (subject to subparagraph (3)) –
 - (a) information whether a business relationship exists or existed between a person carrying on a financial services business and a particular person (“a customer”);
 - (b) a customer’s account number;
 - (c) a customer’s full name;
 - (d) a customer’s date of birth;
 - (e) a customer’s address or former address;
 - (f) the date on which a business relationship between a financial services business and a customer begins or ends;
 - (g) any evidence of a customer’s identity obtained by a financial services business in pursuance of or for the purposes of any legislation relating to money laundering; and

- (h) the identity of a person sharing an account with a customer.
- (2) For the purposes of this Part of this Schedule ‘business relationship’ means a business, professional or commercial relationship between a person carrying on a financial services business and a customer where that relationship is expected by the first person, at the time when contact is established, to have an element of duration.
- (3) The States may by Regulations –
 - (a) provide for a class of information to be customer information, or to cease to be customer information, for the purposes of this Part of this Schedule; or
 - (b) extend the meaning of the expression ‘business relationship’ for the purposes of this Part of this Schedule.

7 Self-incrimination

- (1) Customer information provided by a person carrying on a financial services business under this Schedule shall not be admissible in evidence in criminal proceedings against the person carrying on a financial services business or any of its employees.
- (2) Sub-paragraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(4).

PART 2¹⁸⁵

(Article 41A(2))

ACCOUNT MONITORING ORDERS

1 Account monitoring orders

- (1) The Bailiff may, on an application made to him or her by a police officer of at least the rank of chief inspector, make an account monitoring order against a person carrying on a financial services business if the Bailiff is satisfied that –
 - (a) the order is sought for the purposes of an investigation into money laundering;
 - (b) there are reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence;
 - (c) there are reasonable grounds for believing that account information that may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
 - (d) there are reasonable grounds for believing that it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained, and to the circumstances under which the person in possession of the information holds it.
- (2) An application for an order under sub-paragraph (1) may only be made with the consent of the Attorney General.

- (3) The application for an account monitoring order must state that the order is sought against the person specified in the application carrying on a financial services business in relation to information which –
 - (a) relates to an account or accounts held with the person carrying on a financial services business by the person specified in the application (whether solely or jointly with another); and
 - (b) is of the description so specified.
- (4) The application for an account monitoring order may specify information relating to –
 - (a) all accounts that the person specified in the application for the order holds with the other person specified in the application carrying on the financial services business;
 - (b) a particular description, or particular descriptions, of accounts so held; or
 - (c) a particular account, or particular accounts, so held.
- (5) An account monitoring order is an order that the person specified in the application for the order carrying on a financial services business must –
 - (a) for the period specified in the order;
 - (b) in the manner so specified;
 - (c) at or by the time or times so specified; and
 - (d) at the place or places so specified,provide information of the description specified in the application to a police officer named in the order.
- (6) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

2 Applications

- (1) An application for an account monitoring order may be made *ex parte* to the Bailiff in chambers.
- (2) The description of information specified in an application for an account monitoring order may be varied by the police officer who applied for the order or another police officer of at least the rank of chief inspector.

3 Discharge or variation

- (1) An application to discharge or vary an account monitoring order may be made to the Bailiff by –
 - (a) the police officer who applied for the order or another police officer of at least the rank of chief inspector; or
 - (b) any person affected by the order.
- (2) The Bailiff may confirm, vary or discharge the order.

4 Effect of orders

- (1) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).
- (2) An account monitoring order has effect as if it were an order of the Court.

5 Statements

- (1) A statement made by a person carrying on a financial services business in response to an account monitoring order may not be used in evidence against that person in criminal proceedings.
- (2) However, sub-paragraph (1) does not apply –
 - (a) in the case of proceedings for contempt of court;
 - (b) in the case of proceedings for or in respect of a confiscation order or an instrumentalities forfeiture order; or
 - (c) on a prosecution for an offence where, in giving evidence, the person carrying on a financial services business makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used by virtue of sub-paragraph (2)(c) against a person carrying on a financial services business unless –
 - (a) evidence relating to it is adduced; or
 - (b) a question relating to it is asked,by or on behalf of the person carrying on a financial services business in the proceedings arising out of the prosecution.

ENDNOTES

Table of Legislation History

Legislation	Year and Number	Commencement
Proceeds of Crime (Jersey) Law 1999	L.8/1999	1 July 1999 (R&O.9400)
Terrorism (Jersey) Law 2002	L.40/2002	1 September 2003 (R&O.56/2003)
States of Jersey (Amendments and Construction Provisions No. 2) (Jersey) Regulations 2005	R&O.43/2005	9 December 2005
Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 2008	R&O.25/2008	19 February 2008
Proceeds of Crime (Cash Seizure) (Jersey) Law 2008	L.11/2008	29 February 2008
Proceeds of Crime (Amendment) (Jersey) Law 2008	L.20/2008	4 April 2008
Proceeds of Crime (Amendment of Schedule 2) (Jersey) Regulations 2008	R&O.113/2008	19 September 2008
Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008	L.32/2008	19 September 2008 (R&O.115/2008)
Proceeds of Crime (Amendment No. 2) (Jersey) Law 2009	L.16/2009	10 April 2009
Proceeds of Crime (Amendment of Schedule 2) (No. 2) (Jersey) Regulations 2009	R&O.119/2009	25 November 2009
Terrorist Asset-Freezing (Jersey) Law 2011	L.8/2011	1 April 2011
Gambling (Jersey) Law 2012	L.14/2012	1 January 2013 (R&O.133/2012)
States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 2013	R&O.107/2013	19 July 2013
Security Interests (Jersey) Law 2012	L.24/2012	2 January 2014 (R&O.104/2013)
Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014	L.7/2014	4 August 2014 (R&O.102/2014)
Proceeds of Crime and Terrorism (Tipping Off – Exceptions) (Jersey) Regulations 2014	R&O.101/2014	4 August 2014
Proceeds of Crime (Amendment – Financial Intelligence) (Jersey) Law 2015	L.2/2015	20 February 2015
Proceeds of Crime (Amendment of Law) (Jersey) Regulations 2015	R&O.30/2015	17 March 2015

Legislation	Year and Number	Commencement
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)
Proceeds of Crime (Miscellaneous Amendments) (Jersey) Regulations 2016	R&O.63/2016	26 September 2016 (R&O.99/2016)
Proceeds of Crime (Amendment No. 3) (Jersey) Law 2018	L.30/2018	26 October 2018
States of Jersey (Transfer of Responsibilities and Functions) (Chief Minister to External Relations) Order 2019	R&O.40/2019	31 May 2019
International Co-operation (Protection from Liability) (Jersey) Law 2018	L.29/2018	18 June 2019 (R&O.48/2019)
Public Finances (Jersey) Law 2019	L.10/2019	23 July 2019 (R&O.67/2019)
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	R&O.29/2021	2 March 2021
Proceeds of Crime (Amendment of Law) (No. 2) (Jersey) Regulations 2021	R&O.82/2021	7 July 2021
Legislation (Jersey) Law 2021	L.8/2021	28 September 2021 (R&O.112/2021)
Criminal Procedure (Consequential and Supplementary Amendments) (Jersey) Regulations 2021	R&O.94/2021	1 October 2021
Proceeds of Crime (Amendment No. 4) (Jersey) Law 2021	L.14/2021	8 October 2021
Proceeds of Crime (Miscellaneous Amendments No. 2) (Jersey) Regulations 2021	R&O.84/2021	8 October 2021
Proceeds of Crime (Amendment No. 5) (Jersey) Law 2022	L.8/2022	21 April 2022
Proceeds of Crime (Amendment No. 7) (Jersey) Law 2022	L.26/2022	24 June 2022
Limited Liability Companies (Winding Up and Dissolution) (Jersey) Regulations 2022	R&O.36/2022	1 September 2022 (L.32/2018)
Limited Liability Companies (Consequential Amendments) (Jersey) Regulations 2022	R&O.38/2022	1 September 2022 (L.32/2018)
Proceeds of Crime (Amendment No. 6) (Jersey) Law 2022	L.25/2022	30 January 2023 (R&O.7/2023)
Proceeds of Crime (Consequential and Miscellaneous) (Jersey) Regulations 2023	R&O.2/2023	30 January 2023

Legislation	Year and Number	Commencement
Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023	L.2/2023	3 March 2023
States of Jersey (Transfer of Financial Services Functions – External Relations to Chief Minister) Order 2023	R&O.28/2023	12 April 2023
Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 2023	L.8/2023	17 July 2023 (R&O.59/2023)
Proceeds of Crime (Financial Intelligence) (Amendment) (Jersey) Regulations 2022	R&O.40/2022	25 July 2023 (R&O.63/2023)
Changes to Ministerial Offices (Jersey) Amendment Order 2024	R&O.10/2024	9.30 a.m. on 27 February 2024

Table of Renumbered Provisions

Original	Current
1(9), (10), (11)	spent, omitted from this revised edition
PART I	Part 1
PART II	Part 2
PART III	Part 3
PART IV	Part 4
PART V	Part 5
FIRST SCHEDULE	SCHEDULE 1
SECOND SCHEDULE	SCHEDULE 2

Table of Endnote References

- ¹ *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 2) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- ² *Long title*
amended by L.20/2008
- ³ *Article 1(1)*
amended by L.40/2002, L.20/2008, L.16/2009, L.8/2011, R&O.107/2013, L.7/2014, R&O.30/2015, R&O.63/2016, R&O.82/2021, R&O.84/2021, L.8/2022, R&O.38/2022, R&O.2/2023, R&O.28/2023, R&O.40/2022, R&O.10/2024
- ⁴ *Article 1(2A)*
inserted by L.7/2014
- ⁵ *Article 1(2B)*
inserted by L.7/2014
- ⁶ *Article 1(3)*
amended by R&O.94/2021, L.2/2023
- ⁷ *Article 1(4)*
amended by L.8/2022
- ⁸ *Article 1(5)*
amended by L.8/2022
- ⁹ *Article 1(6A)*
inserted by L.8/2022
- ¹⁰ *Article 1(7)*
amended by L.8/2022
- ¹¹ *Article 1(9)*
inserted by L.8/2011
- ¹² *Article 2(1A)*
inserted by L.8/2022

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- ¹³ Article 2(2) substituted by L.11/2008, amended by L.7/2014, revised on 11 December 2024 by Law Revision Board item [2024/6](#)
- ¹⁴ Article 2(3) amended by L.24/2012, L.8/2022
- ¹⁵ Article 2(9) substituted by R&O.84/2021
- ¹⁶ Article 2(9A) inserted by R&O.84/2021
- ¹⁷ Article 2(9B) inserted by R&O.84/2021
- ¹⁸ Article 2(9C) inserted by R&O.84/2021
- ¹⁹ Article 2(10) amended by R&O.84.2021
- ²⁰ Article 2(11) inserted by L.8/2011
- ²¹ Part 2 heading amended by L.8/2022
- ²² Article 3(5) amended by L.11/2008, L.7/2014, L.8/2022, revised on 11 December 2024 by Law Revision Board item [2024/6](#)
- ²³ Article 3(9) amended by L.11/2008, L.7/2014
- ²⁴ Article 4 substituted by L.7/2014
- ²⁵ Article 4(1) amended by L.8/2022
- ²⁶ Article 5(1) substituted by L.30/2018
- ²⁷ Article 5(6) amended by L.8/2022
- ²⁸ Article 6(1) amended by L.8/2022
- ²⁹ Article 6(3) amended by L.8/2022
- ³⁰ Article 6(4) amended by L.8/2022
- ³¹ Article 6(8) amended by L.8/2022
- ³² Article 7(1) amended by L.8/2022
- ³³ Article 7(8) amended by L.8/2022
- ³⁴ Article 7(9) amended by L.8/2022
- ³⁵ Article 7(10) amended by L.8/2022
- ³⁶ Article 7(12) substituted by L.8/2022
- ³⁷ Article 8(1) amended by L.8/2022
- ³⁸ Article 9(2) amended by L.8/2022
- ³⁹ Article 9(4) amended by L.8/2022
- ⁴⁰ Article 9(6) amended by L.8/2022
- ⁴¹ Article 10 heading amended by L.8/2022
- ⁴² Article 10(1) amended by L.11/2008, L.8/2022, editorial change in sub-paragraph (a)(iii), “Misuse of Drugs (Jersey) Law 1979” deleted, “Misuse of Drugs (Jersey) Law 1978” inserted instead, revised on 11 December 2024 by Law Revision Board item [2024/6](#)
- ⁴³ Article 10(2) substituted by L.8/2022
- ⁴⁴ Article 11 heading amended by L.8/2022
- ⁴⁵ Article 11(1) amended by L.8/2022
- ⁴⁶ Article 11(1A) inserted by L.8/2022
- ⁴⁷ Article 11(3) amended by L.8/2022
- ⁴⁸ Article 11(5A) inserted by L.8/2022
- ⁴⁹ Article 11(6) amended by L.8/2022
- ⁵⁰ Article 11(7) amended by L.8/2022
- ⁵¹ Article 12(6) amended by L.8/2022
- ⁵² Article 15(1) amended by L.8/2022
- ⁵³ Article 15(1A) inserted by L.7/2014, amended by L.8/2022
- ⁵⁴ Article 15(5) amended by L.7/2014
- ⁵⁵ Article 16(6) substituted by L.7/2014
- ⁵⁶ Article 17(1) amended by L.8/2022
- ⁵⁷ Article 18 heading amended by L.8/2022
- ⁵⁸ Article 18(1) amended by L.8/2022
- ⁵⁹ Article 18(3) amended by R&O.94/2021

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- ⁶⁰ Article 19(4) amended by L.8/2022
- ⁶¹ Article 20(1) amended by L.8/2022
- ⁶² Article 20(2) amended by L.8/2022
- ⁶³ Article 20(3) amended by L.8/2022
- ⁶⁴ Article 21 heading amended by L.8/2022
- ⁶⁵ Article 21(1) amended by L.8/2022
- ⁶⁶ Article 22(2) amended by L.8/2022
- ⁶⁷ Article 23 amended by L.29/2018
- ⁶⁸ Article 24(1) amended by R&O.107/2013
- ⁶⁹ Article 24(2) amended by L.20/2008, L.8/2022, substituted by L.2/2023
- ⁷⁰ Article 24(3A) inserted by L.20/2008, deleted by L.10/2019
- ⁷¹ Article 24(4) amended by L.20/2008, R&O.107/2013
- ⁷² Article 24(4A) inserted by L.7/2014
- ⁷³ Article 24(5) amended by R&O.107/2013
- ⁷⁴ Article 24(6) amended by R&O.107/2013
- ⁷⁵ Article 24(8) substituted by L.20/2008, amended by L.8/2022
- ⁷⁶ Article 24(9) inserted by L.2/2023
- ⁷⁷ Article 25(1) revised on 11 January 2024 by Law Revision Board item [2023/1](#)
- ⁷⁸ Article 26 heading amended by L.8/2022
- ⁷⁹ Article 26(1) amended by L.8/2022
- ⁸⁰ Article 26(2) amended by L.8/2022
- ⁸¹ Article 26(6) amended by L.8/2022
- ⁸² Article 27 heading amended by L.8/2022
- ⁸³ Article 27(1) amended by L.8/2022
- ⁸⁴ Article 27(2) amended by L.8/2022
- ⁸⁵ Article 27(3) amended by L.8/2022
- ⁸⁶ Article 27(7) amended by L.8/2022
- ⁸⁷ Article 28 heading amended by L.8/2022
- ⁸⁸ Article 28(1) amended by L.8/2022
- ⁸⁹ Article 28(2) amended by L.8/2022
- ⁹⁰ Article 28(3) amended by L.8/2022
- ⁹¹ Article 28(4) amended by L.8/2022
- ⁹² Article 28(5) amended by L.8/2022
- ⁹³ Article 28(9) amended by L.8/2022
- ⁹⁴ Article 28A inserted by L.20/2008, heading amended by L.8/2022
- ⁹⁵ Article 28A(1) amended by L.8/2022
- ⁹⁶ Article 28B inserted by L.8/2022
- ⁹⁷ Article 29 substituted by L.7/2014
- ⁹⁸ Article 29(1) substituted by L.30/2018, amended by L.8/2022
- ⁹⁹ Article 30 substituted by L.7/2014
- ¹⁰⁰ Article 30(5) amended by L.8/2022
- ¹⁰¹ Article 31 substituted by L.7/2014
- ¹⁰² Article 31(4) amended by L.8/2022
- ¹⁰³ Article 31(5) amended by L.8/2022
- ¹⁰⁴ Article 32 substituted by L.7/2014
- ¹⁰⁵ Article 32(1) amended by L.8/2022, R&O.40/2022
- ¹⁰⁶ Article 32(4) amended by R&O.40/2022
- ¹⁰⁷ Article 32(5) amended by R&O.40/2022
- ¹⁰⁸ Article 32(7) amended by L.8/2022, R&O.40/2022
- ¹⁰⁹ Article 33 substituted by L.7/2014
- ¹¹⁰ Article 33(1) amended by R&O.40/2022
- ¹¹¹ Article 33(2) amended by L.1/2016

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- ¹¹² Article 34 substituted by L.7/2014
- ¹¹³ Article 34(1) amended by R&O.40/2019, R&O.40/2022
- ¹¹⁴ Article 34(2) amended by R&O.40/2022
- ¹¹⁵ Article 34(3) deleted by R&O.40/2022
- ¹¹⁶ Article 34(4) deleted by R&O.40/2022
- ¹¹⁷ Article 34(5) deleted by R&O.40/2022
- ¹¹⁸ Article 34A inserted by L.20/2008
- ¹¹⁹ Article 34A(1) substituted by L.7/2014
- ¹²⁰ Article 34A(1A) inserted by L.7/2014
- ¹²¹ Article 34A(1B) inserted by L.7/2014, amended by R&O.40/2022
- ¹²² Article 34A(3) amended by L.7/2014, R&O.40/2022
- ¹²³ Article 34B inserted by L.20/2008
- ¹²⁴ Article 34C inserted by L.20/2008
- ¹²⁵ Article 34D inserted by L.20/2008
- ¹²⁶ Article 34D heading amended by L.16/2009, R&O.40/2022
- ¹²⁷ Article 34D(1) substituted by L.7/2014
- ¹²⁸ Article 34D(2) substituted by L.7/2014, amended by L.8/2022
- ¹²⁹ Article 34D(3) substituted by L.7/2014
- ¹³⁰ Article 34D(4) substituted by L.7/2014
- ¹³¹ Article 34D(4A) inserted by L.7/2014, amended by R&O.40/2022
- ¹³² Article 34D(7) substituted by L.16/2009, amended by R&O.2/2023
- ¹³³ Article 34D(7A) inserted by L.16/2009, amended by R&O.2/2023
- ¹³⁴ Article 34D(9) amended by L.16/2009, L.7/2014, R&O.40/2022
- ¹³⁵ Article 34E inserted by L.16/2009, deleted by R&O.40/2022
- ¹³⁶ Article 35 substituted by L.7/2014
- ¹³⁷ Article 35(6) amended by R&O.101/2014, R&O.2/2023
- ¹³⁸ Article 35(8) amended by L.8/2022
- ¹³⁹ Article 35A inserted by L.26/2022
- ¹⁴⁰ Article 35A(6) amended by R&O.2/2023
- ¹⁴¹ Article 35A(9) amended by R&O.2/2023
- ¹⁴² Article 36 substituted by L.25/2022
- ¹⁴³ Article 36(1) amended by R&O.2/2023
- ¹⁴⁴ Article 36(1A) inserted by R&O.2/2023
- ¹⁴⁵ Article 36(2) amended by R&O.2/2023
- ¹⁴⁶ Article 36(7) amended by R&O.28/2023, R&O.10/2024
- ¹⁴⁷ Article 37 heading amended by L.20/2008
- ¹⁴⁸ Article 37(1) substituted by L.20/2008, amended by R&O.107/2013, R&O.40/2019, R&O.29/2021, substituted by L.14/2021, amended by R&O.2/2023, R&O.28/2023, R&O.10/2024
- ¹⁴⁹ Article 37(1A) inserted by L.20/2008, amended by L.14/2021
- ¹⁵⁰ Article 37(2) substituted by L.20/2008, amended by R&O.40/2022
- ¹⁵¹ Article 37(3) substituted by L.20/2008
- ¹⁵² Article 37(4) amended by L.14/2021
- ¹⁵³ Article 37(5) deleted by L.26/2022
- ¹⁵⁴ Article 37(6) deleted by L.26/2022
- ¹⁵⁵ Article 37(8) substituted by L.32/2008, amended by R&O.2/2023
- ¹⁵⁶ Article 37(9) substituted by L.32/2008, amended by L.7/2014, R&O.2/2023
- ¹⁵⁷ Article 37(10A) inserted by R&O.2/2023
- ¹⁵⁸ Article 37(11) substituted by L.7/2014, amended by L.8/2023
- ¹⁵⁹ Article 38 substituted by L.20/2008
- ¹⁶⁰ Article 38(1) amended by L.7/2014
- ¹⁶¹ Article 39(1) amended by L.20/2008

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- ¹⁶² Article 39A inserted by L.26/2022
- ¹⁶³ Article 40 heading amended by L.8/2022
- ¹⁶⁴ Article 40(1) substituted by L.8/2022
- ¹⁶⁵ Article 40(4) amended by L.8/2022
- ¹⁶⁶ Article 40(10) deleted by L.7/2014
- ¹⁶⁷ Article 40(11) substituted by L.7/2014
- ¹⁶⁸ Article 41(1) substituted by L.8/2022
- ¹⁶⁹ Article 41(2) amended by L.7/2014
- ¹⁷⁰ Article 41(3) amended by L.8/2022
- ¹⁷¹ Article 41(4) amended by L.8/2022
- ¹⁷² Article 41(6) deleted by L.7/2014
- ¹⁷³ Article 41A inserted by L.20/2008
- ¹⁷⁴ Article 41B inserted by L.2/2015
- ¹⁷⁵ Article 42 repealed by L.7/2014
- ¹⁷⁶ Article 42A inserted by L.8/2011
- ¹⁷⁷ Article 43(1) amended by R&O.107/2013, R&O.40/2019, R&O.29/2021, R&O.28/2023, R&O.10/2024
- ¹⁷⁸ Article 43(2) deleted by L.8/2021
- ¹⁷⁹ Article 44 amended by L.20/2008
- ¹⁸⁰ Article 44A inserted by L.25/2022
- ¹⁸¹ Schedule 1 amended by L.40/2002, L.11/2008, L.7/2014, L.8/2022
- ¹⁸² Schedule 2 substituted by R&O.25/2008, L.25/2022, amended by R&O.2/2023
- ¹⁸³ Schedule 3 inserted by L.20/2008
- ¹⁸⁴ Schedule 3 Part 1 amended by L.16/2009, L.7/2014, L.2/2015, L.1/2016
- ¹⁸⁵ Schedule 3 Part 2 amended by L.16/2009, L.8/2022