THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

AMENDMENTS TO THE CRIMINAL JUSTICE FRAMEWORK

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "Amendments to the Criminal Justice Framework", dated 25th July 2022, they are of the opinion:-

1. To agree to the introduction of legislation creating preventive offences, as set out in section 3 of the Policy Letter;

2. To agree to the introduction of legislation creating disclosure obligations in criminal cases as set out in section 4 of the Policy Letter;

3. To agree to the introduction of legislation to enable deferred prosecution agreements as set out in section 5 of this Policy Letter;

4. To agree to amend the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 to introduce a reverse burden of proof, a summary forfeiture procedure and protection against liability for the authorities, as set out in sections 6 and 7 of this Policy Letter;

5. To agree that the amendments referred to in paragraph 4 should be included in the new legislation for civil forfeiture that is currently being drafted, as set out in sections 6 and 7 of this Policy Letter;

6. To agree to amend the legislation governing confiscation in criminal cases to change the way that property subject to *saisie* is treated as set out in section 8 of this Policy Letter;

7. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

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of the
ISLAND OF GUERNSEY

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AMENDMENTS TO THE CRIMINAL JUSTICE FRAMEWORK

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

25th July, 2022

Dear Sir

1 Executive Summary

1.1 The purpose of this Policy Letter is to recommend some amendments to the Bailiwick's criminal justice framework. The amendments are primarily intended to improve the Bailiwick's effectiveness in dealing with financial crime, but will have an impact on the prosecution of other offences.

1.2 This Policy Letter follows a Policy Letter dated 27th September 2021 from the Committee *for* Home Affairs (''the Committee'') recommending a number of technical amendments around matters relating to money laundering, terrorist financing, cybercrime, the reporting of suspicion, the disclosure of information, the provision of international assistance and obtaining information about previous convictions. The recommendations in that letter were approved by the States in November 2021.

1.3 As was explained to the States at the time, it was envisaged that the Committee would make further recommendations in respect of some other possible changes which went beyond technical issues, on the basis of advice from the Law Officers and following consultation with the private sector. The consultation has now been carried out and Her Majesty's Comptroller (HMC) has provided advice in respect of the changes that were the subject of the consultation. The Committee fully supports HMC's conclusions as set out below.

2 Advice from Her Majesty's Comptroller

2.1 HMC has advised in respect of the amendments in the following terms:

2.2 "The recommendations in this letter relate to matters which go beyond technical issues, and which were dealt with in a consultation paper issued by the Committee in October 2021. In making these recommendations I have taken into account the feedback received to the consultation.

2.3 The recommendations concern criminal offences of failure by corporate entities to prevent certain types of economic crime, defence disclosure obligations, the burden of proof in civil forfeiture cases, deferred prosecution agreements, summary forfeiture in certain cases, and the effect of the saisie regime in criminal cases.

2.4 The primary purpose of the recommendations is to improve the effectiveness of the framework for dealing with money laundering and terrorist financing (AML/CFT), as well as other forms of economic crime. However, if implemented they will have an impact on other offences in some respects.

3 Preventive offences

3.1 Work that has been undertaken to assess the money laundering risks to the Bailiwick, commonly referred to as the National Risk Assessment (NRA), identified the greatest risks as coming from the proceeds of foreign fraud (including tax evasion) and foreign bribery and corruption. These activities are also the subject of widespread global concern and most jurisdictions, including the Bailiwick, already have legislation in place to criminalise them.

3.2 However, it can be difficult to obtain the evidence necessary to prosecute these offences if they are linked to conduct that takes place outside the prosecuting jurisdiction (as is commonly the case for financial centres with an international client base).

3.3 Another difficulty is in holding corporate entities to account when they commit these offences. This is primarily because of the identification doctrine applicable in the Bailiwick and other jurisdictions with a similar legal system such as the UK and Jersey. The identification doctrine means that a corporate entity will only be liable for a criminal act if an individual that commits the offence can be identified as the directing mind and will of the entity. The identification doctrine has come under criticism from the Law Commission in the UK, which considers that it ignores the reality of modern corporate decision making (which often relies on the application of policies and procedures rather than specific decisions) and that it discriminates against small businesses in favour of large organisations that have much more diffused and devolved decision making processes.

3.4 In recognition of these difficulties, the UK has introduced criminal offences for corporate entities in relation to failure to prevent bribery under the Bribery Act 2010 (the Bribery Act) and failure to prevent facilitation of tax evasion under the

Criminal Finances Act 2017 (the CF Act). While these offences still require an act of bribery or tax evasion as the case may be to have been committed, they are not dependent on the application of the identification doctrine to that act. There are some differences in the wording of the offences under the Bribery Act and the CF Act, but broadly speaking their effect is the same, as both apply in respect of conduct carried out by third parties acting on behalf of the corporate entity, including where this takes place outside the UK, and the complicity of the corporate entity is not required. However, the corporate entity will have a defence if it can show that it had in place adequate procedures designed to prevent this from happening, and there is a requirement for statutory guidance about adequate procedures.

3.5 In addition, the States of Jersey have recently approved legislation to introduce an offence of failure to prevent money laundering and terrorist financing. This offence, which applies to businesses that are subject to AML/CFT obligations, is along the same lines as the UK preventive offences outlined above and is subject to a similar prevention procedures defence.

3.6 It is clearly important that the Bailiwick keeps pace with these important developments in other jurisdictions, not only to improve the ability to take effective action in these areas, but also to send a strong signal internationally that the jurisdiction is serious about meeting its international obligations and in addressing issues covered in the NRA.

3.7 The introduction of offences corresponding to the UK preventive offences outlined above would be unlikely to cause any significant extra work for the private sector. This is because the majority of affected businesses, i.e. those in the regulated sector that carry out cross border business, are covered by the extra territoriality provisions applicable to those offences so already have procedures in place to address them. In addition, there would be a considerable overlap with the measures that regulated businesses are already required to have in place in order to mitigate the risks of money laundering and terrorist financing. I therefore recommend that offences of failure to prevent bribery and facilitation of tax evasion corresponding to those in the UK are introduced.

3.8 I further recommend the introduction of a preventive offence that corresponds to the proposed preventive offence in Jersey outlined above. Again, this is unlikely to lead to any additional work as businesses should already have the necessary procedures in place because of their obligations under the AML/CFT framework.

3.9 I also recommend that there should be a power to amend these new offences by Ordinance, so that any changes that may be necessary to keep abreast of international developments can be swiftly made.

4 Defence disclosure obligations

4.1 The right to silence and the need for the prosecution to prove its case are fundamental principles under the criminal justice system in the Bailiwick and elsewhere. However, in modern times there has been recognition in some jurisdictions that these principles, and the interests of justice more widely, are not undermined by requiring the defence to clarify the issues that are in dispute in a criminal trial in order to remove the need to adduce evidence on matters that are not challenged.

4.2 On the contrary, it is widely recognised that this clarification promotes the interests of justice. This is because it leads to a more focused approach to case preparation and trial planning. This assists all parties, not just the prosecution, as it enables the evidence in lengthy or complex trials to be presented more efficiently and precisely, which in turn reduces the risk of unnecessary delays that are often very stressful for defendants as well as having the potential to undermine public confidence in the legal system. Advance clarification of the defence case also reduces the risk of what has been described as an ambush defence (i.e. where a point is made for the first time during a trial so the prosecution has had no opportunity to test it). In addition, it makes it less likely that cases which are strong on the merits have to be dismissed on purely technical grounds because of an inadvertent gap in the evidence about a point that is not in dispute.

4.3 The UK addressed this issue some 25 years ago with the introduction of the Criminal Procedure and Investigations Act 1996. This requires the prosecution to provide the defence with details of the charges against a defendant, the underlying evidence to support those charges and copies of, or access to, any unused material that might undermine the prosecution or assist the defence. After this material has been served, there is a duty on the defendant in the Crown Court to serve a defence statement (this is optional in the Magistrate's Court).

4.4 In general terms, a defence statement must set out the nature of the defence, including any particular defences on which the defendant intends to rely, explain which facts are in dispute and why, identify any points of fact or law on which the defendant intends to rely, and, where this includes an alibi, details of that alibi. A defendant must also give the prosecution notice of intention to call witnesses (including experts) and details of those witnesses.

4.5 If a defendant fails to comply with the requirements in respect of a defence statement, calls witnesses without prior notification, advances an inconsistent case or relies on something at trial that has not been mentioned in a defence statement, that fact may be commented on by the court or another party and may result in the court drawing inferences as to the defendant's guilt. However, this inference alone is not sufficient to establish a person's guilt, and the court

must have regard to whether there is any justification for the activity concerned. Therefore, these measures do not mean that a defence cannot succeed if a defence statement or advance notice of witnesses has not been served. Nor do they mean that a defendant is compelled to answer any questions in a police interview.

4.6 While these measures were seen as controversial by some in the UK when first introduced, they are now largely accepted as promoting the effective running of the criminal justice system. Successive court judgements have also confirmed that the measures do not undermine legal professional privilege or the privilege against self-incrimination. The other Crown Dependences have now followed suit. The Isle of Man essentially replicated the UK position with the introduction of the Criminal Procedure and Investigations Act 2016 and Jersey did the same with the introduction of the Criminal Procedure (Jersey) Law, 2018 (except that the relevant measures are requirements in the Magistrate's Court as well as in the Royal Court).

4.7 The current position in the Bailiwick is that the prosecution is obliged (by case law rather than statute) to comply with the same disclosure requirements as the prosecution in the UK, Jersey and the Isle of Man. However, there are no corresponding obligations for defendants. Therefore, the Bailiwick is now out of step with comparable jurisdictions.

4.8 The imbalance between the prosecution and the defence that now exists here is not just a theoretical or academic issue, but one which has had practical consequences in many cases brought before the Bailiwick courts. It has meant that considerable time has been required to deal with matters that often had no bearing on the actual or eventual issues in the case. As a result, significant court time has been wasted, and the defendant has been subject to increased costs and stress resulting from the proceedings being more protracted than they needed to be. Another consequence of the present system is that in cases where a number of different defences were possible, the prosecutors and the police have had to prepare for every eventuality as they did not know what defence would be run at trial. This means that resources from the public purse have had to be used to deal with matters that were not in fact relevant.

4.9 In most cases, limited disclosure obligations on the defence in the manner outlined above would have prevented these problems. This would in turn have benefited both prosecutors and defendants, as well as enabling the trial judge to take a far more informed and pragmatic approach at an early stage so that the focus at trial would be on the genuine areas of dispute.

4.10 I therefore recommend the introduction of legislation to impose prosecution and defence disclosure obligations along the same lines as in Jersey.

5 Deferred prosecution agreements

5.1 A number of jurisdictions have introduced deferred prosecution agreements (DPAs), in recognition of the fact that they can provide an alternative tool for resolving economic wrongdoing provided that stringent conditions are met, including cooperation by the party concerned. This is particularly useful in cases involving multi-jurisdictional transactions that can result in lengthy and resource-intensive criminal proceedings where the outcome is uncertain. In some situations, it may be better for prosecutors and defendants to agree to resolve matters by the defendant agreeing to take certain steps (e.g. payment of a financial penalty or introducing a compliance programme) in exchange for the prosecutor agreeing not to proceed with a trial.

5.2 The UK has made provision for DPAs in Schedule 17 of the Crime and Courts Act 2013. They can only be entered into by potential defendants who are organisations, not individuals, and only apply to specified offences such as money laundering, fraud, bribery, and breaches of sanctions or other asset freezing measures. Schedule 17 requires DPAs to set out the facts relating to the alleged offence and the requirements imposed on the defendant, which may include time limits for compliance and a term setting out the consequences for the defendant of failing to comply with any requirements of the DPA.

5.3 A DPA must be approved by the court and once approved, its effect is that a prosecution is initiated but then automatically suspended. In the event of breach of a DPA, the court may invite the parties to resolve the matter or alternatively may terminate the DPA, in which case the prosecutor may apply to the court for the suspension of the prosecution to be lifted. Schedule 17 also makes provision for ancillary matters such as the variation of DPAs, use of material in DPAs in criminal proceedings, publication of information about DPAs and discontinuance of proceedings on the expiry of a DPA. There is also a requirement for the Director of Public Prosecutions and the Director of the Serious Fraud Office jointly to issue a Code for prosecutors giving guidance on the general principles to be applied in determining whether a DPA is appropriate, the disclosure of information by prosecutors to defendants in the course of negotiations for a DPA and any other relevant matters.

5.4 There have been some high profile cases in the UK where disgorgement and financial restitution were fundamental considerations in DPA negotiations that provided a process for the recovery of ill-gotten gains. However, there have been some difficulties with the operation of DPAs, in particular the time taken to complete DPAs in some cases and the fact that they will only usually be considered after considerable investigatory resources have been deployed.

5.5 Despite these difficulties in the UK, DPAs could potentially be a useful addition to the measures available to the Guernsey authorities for tackling economic crime,

especially given that the difficulties in prosecuting complex cases outlined above are often more acute in a small jurisdiction. The DPA regime would be subject to guidance from HM Procureur and prosecution would continue to be the priority where a DPA would not be in the public interest or a party's alleged wrongdoing was very serious. It would also be possible to withdraw a DPA to reflect a change in circumstances, for example if new evidence came to light. While this might mean that the number of Bailiwick cases that are dealt with by a DPA is small, DPAs would still be a useful additional tool that could make a significant difference to the effective implementation of the criminal justice framework in an appropriate case.

5.6 *It would also be beneficial for individuals to be included within the DPA regime. Although this is not currently possible in the UK, there is no obvious reason why individuals engaged in activity with the same exposure to financial crime as organisations that are carrying out that activity (for example individuals providing trust and corporate services to foreign clients under a personal fiduciary licence) should not have the same opportunity to enter into a DPA as those organisations. Similarly, the same factors (cross-border activity etc.) that might make a DPA attractive to the authorities could well exist in that situation and again, there is no obvious reason why the opportunity for a DPA should not exist.*

5.7 *Therefore, I advise that legislation is enacted to introduce DPAs into Bailiwick law, along the lines outlined above.*

6 Burden of proof in civil cases

6.1 *Guernsey, like a number of other jurisdictions, has legislation in place to permit the forfeiture of the proceeds of crime in civil proceedings, namely the Forfeiture of Money in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 (the Civil Forfeiture Law). Civil forfeiture is an essential weapon in the fight against crime, as it enables criminal proceeds to be removed from circulation in circumstances where it is not possible to bring a criminal prosecution, for example where the perpetrator of the criminality from which the unlawful assets are derived is outside the jurisdiction.*

6.2 *However, the effective implementation of civil forfeiture is often hampered by the difficulty in obtaining evidence about the source of assets that are suspected to be criminal in origin. While this can apply to any jurisdiction, it is particularly an issue for international financial centres, given that they typically hold or manage assets that have been generated elsewhere. This difficulty is often exacerbated in cases of suspected kleptocracy (i.e. the theft of state assets) and other forms of corruption by persons in positions of power because of the influence such persons can exert over their domestic authorities. This influence may prevent those authorities from obtaining evidence about the person's criminality, from sharing*

information with the authorities in the jurisdiction where the person's assets are located, or both. For these reasons, there is an increasing trend for jurisdictions to place an obligation on persons in certain circumstances to demonstrate the source of their assets.

6.3 *In Jersey, under the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 (the Jersey Forfeiture Law), assets in the form of cash or property in bank accounts may be frozen by the court on the grounds that there is reason to believe that the assets are tainted. Tainted for these purposes means that they are the proceeds of crime or have been used or are intended to be used for criminal purposes). Once frozen, under Article 15 the Attorney General (AG) may make an application for forfeiture of the assets and the court must make a forfeiture order unless satisfied by the owner of the assets that they are not tainted.*

6.4 *The UK has taken a different approach by introducing unexplained wealth orders (UWOs), which are essentially an investigative tool but they can result in the burden of proof being shifted in some cases. Under section 362A of the Proceeds of Crime Act 2002 (POCA), the court may make an UWO requiring a person to provide a statement setting out the nature of their interest in particular property specified in the order (which is subject to a £50,000 threshold), and how they obtained that property. Failure to comply with the order without reasonable excuse means that the property is presumed to meet the test for civil forfeiture under Part V of POCA, but this is a rebuttable presumption so it will still be open to a person to resist a forfeiture order if they can demonstrate the lawfulness of the property. In order to make an UWO the court must be satisfied that there is reason to believe that the person's known lawful income is insufficient to enable them to obtain the property, and that the person concerned is either a politically exposed person (PEP), i.e. an individual who holds or has held a prominent public function outside the UK or the European Economic Area, a family member or associate of a PEP, or a person suspected on reasonable grounds of being involved in serious crime or of being linked to a person with involvement in serious crime.*

6.5 *Consequently, in both the UK and Jersey the burden of proving the origin of assets rests in some cases with the owner of the assets (albeit that this applies in a more restrictive category of cases in the UK than in Jersey). This is reasonable as the owner is obviously the person best placed to do this, and the need for there to be an objective basis for doubting the legitimacy of specific assets prevents so-called "fishing expeditions" against a person. There are other safeguards in place, such as the right to apply to vary or discharge an order and the right of appeal against forfeiture, which means that human rights are protected.*

6.6 *The measures outlined above are beginning to be used with effect. Similar measures would clearly be beneficial in the Bailiwick, given that it faces the same difficulties as other jurisdictions in obtaining evidence to demonstrate the origin*

of assets and there is a specific finding in the NRA about the risks to the Bailiwick from proceeds of foreign kleptocracy and other forms of corruption. The advantage of the Jersey process is that it is less cumbersome than the UWO process, and its overall scope is wider.

6.7 *Therefore, I advise that an amendment is made to the Civil Forfeiture Law whereby the burden of proof is shifted to the owner of the assets where the assets are already subject to a freezing order (which means the court has already been satisfied that there are reasonable grounds to suspect the criminal nature of the assets), in the same way as in Jersey. The amendment should also include a regulation making power that would enable the Committee to put in place a process whereby a forfeiture decision could be revisited in the event that new evidence came to light, in the event that this is considered necessary once use has begun to be made of the reversed burden of proof.*

6.8 *I further recommend that the approach taken in the amendments is also taken in the Projet that is currently being drafted to implement the new civil forfeiture regime, following the decision of the States in November 2021 to repeal and replace the Civil Forfeiture Law with a revised regime.*

7 Summary procedure in "no consent " cases

7.1 *The legal frameworks of the UK and the Crown Dependencies make provision for what are commonly described as "no consent" cases. These are cases where the law enforcement authorities have refused to consent to a transaction involving particular property. The effect of consent is simply that a person has a defence to money laundering or terrorist financing in relation to that transaction, and the refusal of consent does not operate as a legal bar to the transaction taking place. However, in practice banks and other businesses will not generally proceed with a transaction where consent has been refused because of the risk of committing a money laundering or terrorist financing offence. This can lead to a situation where assets remain effectively stuck "in limbo", sometimes for many years, because the owner of property linked to the transaction does not take any steps to claim them (usually because he or she knows that their legitimacy cannot be demonstrated) and the institution does not wish to deal with them for the reason given above.*

7.2 *The UK has addressed this by a moratorium approach, whereby in the absence of a response consent is deemed to have been given after a period of time. I do not consider that this would be a suitable approach for a jurisdiction such as the Bailiwick. Its position as an international financial centre with a low domestic crime rate means that virtually all consent requests made in the Bailiwick involve cross-border business. As a result, a far higher proportion of consent requests than in the UK involve suspected criminality committed elsewhere. This means in turn that it would be much more difficult, and would take far more time and*

resources, for the Bailiwick authorities to be satisfied about the legitimacy or otherwise of a proposed transaction. Furthermore, the extra degree of scrutiny that the Bailiwick faces as an international financial centre could make it difficult to justify a regime under which potentially criminal assets were being automatically transferred with impunity after a specific period of time.

7.3 Jersey has taken a different approach. In addition to the reverse burden of proof process outlined above, it has created a summary forfeiture under Article 11 of the Jersey Forfeiture Law in relation to consent. It applies to property in a bank account if at least 12 months has passed since the notification of the refusal of consent was served on the person making the consent request. The AG triggers the process by serving a notice on the holder of the account requiring them to attend a court hearing to show cause why the property is not tainted (i.e. is neither the proceeds of crime nor intended to be used for crime) and should not be forfeited. If the person fails to attend the hearing (either in person or by a legal representative) the AG may apply for the forfeiture of the property and the court may make the order without further notice to the person concerned.

7.4 The rights of the owners of the property are protected because they have the opportunity to provide evidence about the property (either in person or by an affidavit). If they do this, the position is effectively the same as under Article 15 of the Jersey Forfeiture Law (see above), because if they fail to satisfy the court that the property is not tainted, the court must make a forfeiture order on the application of the AG. The summary procedure is also subject to the safeguard that the AG must be satisfied that there are reasonable grounds to believe that the property is tainted.

7.5 In this regard, it is important to stress that the evidential threshold for making an application is not satisfied by the mere fact that a suspicious activity report has been made. In cases where such reports are relied on, this is on the basis of their substantive content. The requirement for the property to have been the subject of "no consent" for at least a year is an additional safeguard, as it means that interested parties are aware (unless they have not been informed due to fear of committing a tipping off offence) that the property is considered suspicious and have already had 12 months to alleviate that suspicion.

7.6 Jersey has started to use this summary procedure and it is proving an effective way of dealing with longstanding "no consents". I recommend that a similar process should be introduced in the Bailiwick. This can be easily achieved by amending the Civil Forfeiture Law. As with the amendment to reverse the burden of proof, this approach should also be taken in the Projet that is currently being drafted to implement the new civil forfeiture regime referred to above.

7.7 Finally, I recommend that if the Civil Forfeiture Law is amended as I have advised on this point and also in respect of the burden of proof, there should be a further

amendment specifying that the authorities are not liable for damages or costs arising from forfeiture proceedings (subject to a right to damages for acts which constitute a breach of human rights and a right to compensation for acts done in bad faith). This would mirror provisions in Jersey's civil forfeiture legislation and would also make it clear that the Bailiwick position with regard to civil forfeiture is the same as the long established position in criminal cases. The States has already agreed that such a provision should be included in the new civil forfeiture regime. Clearly it is equally important for this to apply to the current regime, particularly if the number of cases taken forward under the current regime increases as a result of the amendments that I have recommended.

8 Saisie in criminal cases

8.1 Experience to date is that in addition to financial assets, the most significant asset held by a person who is subject to a confiscation order is usually real property. This is particularly the case with confiscation orders made in domestic cases. The Bailiwick's legal framework makes provision for the recovery of assets in third party hands if the person who holds the assets acquired them in the last 6 years as a gift, i.e. for no consideration or for inadequate consideration. This is important to ensure that people cannot transfer assets to a third party in order to put them beyond the reach of the authorities. However, this does not apply to real property that is transferred to a third party as the result of saisie.

8.2 Saisie is a customary law process unique to the Bailiwick whereby creditors enforce debts against a person's real property. It is available to any person who has registered a charge against the property. Where there is more than one creditor in this position, creditors are ranked in order of priority, according to criteria such as whether creditors have a bond over the property or have registered a judgement against the property owner in the Livre des Hypothèques, Actes de Cour et Obligations at the Greffe. They are then given the opportunity in ascending order of priority to take ownership of the property, provided that they repay the debts charged against the property by creditors with a higher priority. This may result in a creditor taking ownership of a property with a greater value than the combined value of the debts owed to them and all other creditors. In that situation, there is no obligation to account to the debtor for the excess equity, although in practice financial institutions will often do so.

8.3 If a third party keeps the excess equity in a property, it will not be available to satisfy a confiscation order. This creates the possibility for the saisie process to be manipulated by a third party with a connection to the defendant, by registering a charge against the property with the aim of taking ownership of it and then allowing the defendant to continue to live there. There have been cases where this appears to have happened. Clearly that is an unacceptable situation that cannot be justified from an international standards perspective.

8.4 Even where the third party who retains the excess equity is not connected to the defendant, the result is still that it cannot be used to satisfy the confiscation order. Again, there have been instances where this has happened. Although this is not as egregious as cases where the property remains available to a defendant, it nevertheless undermines the effectiveness of the confiscation regime. It also means that the property is not available to compensate any victims of the defendant's crime.

8.5 I therefore recommend that the legal framework is amended so that, for the purposes of enforcing a confiscation order, excess equity acquired by a third party via saisie would be treated in the same way as a gift to a third party, and subject to the same provisions to protect innocent third parties who might be prejudiced as a result.".

9 Compliance with Rule 4

9.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

9.2 In accordance with Rule 4(1):

a) The propositions contribute to Priority 2 of the Government Work Plan by ensuring compliance with international agreements and standards.

b) In preparing the propositions, consultation has been undertaken with the private sector, Her Majesty's Procureur, the Policy & Resources Committee, the Director of the Economic and Financial Crime Bureau, the States of Alderney Policy & Finance Committee and Sark Chief Pleas Policy & Finance Committee.

c) The propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

d) There are no financial implications to the States of carrying the proposals into effect.

9.3 In accordance with Rule 4(2):

a) The propositions relate to the Committee's purpose and policy responsibilities Committee to advise the States and to develop and implement policies on matters relating to its purpose including law enforcement, including policing and customs.

b) The propositions have the unanimous support of the Committee.

Yours faithfully

R G Prow
President

S P J Vermeulen
Vice-President

S E Aldwell
L McKenna
A W Taylor

P A Harwood MBE
Non-States Member