

The proceeds of crime law and unregulated trustees

Service area / [Trusts and Private Wealth](#)

Legal jurisdiction / [Guernsey](#)

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The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 ("**Proceeds of Crime Law**") has been extended to cover unregulated trustees and partners. This extension took effect on 16 October 2023 and introduced additional obligations that unregulated trustees and partners must comply with in addition to their existing obligations under the relevant laws (e.g. Trusts (Guernsey) Law, 2007).

These measures were introduced to comply with the Foreign Action Task Force's recommendation to ensure that adequate, accurate and up-to-date information on legal arrangements is maintained within Guernsey and can be obtained or accessed efficiently and in a timely manner by the authorities.

Who do the new obligations apply to?

The obligations apply to a trustee or partner of a partnership (other than a limited partnership with legal personality):

- that is subject to the law of any part of the Bailiwick of Guernsey; and
- who is not regulated or authorised to act as trustee or partner by the GFSC.

This means that individuals taking on trusteeships of Guernsey charities or trusts settled by friends or family without being remunerated for their services will be subject to the new obligations.

What are additional obligations?

The additional obligations are set out in schedule 10 of the Proceeds of Crime Law and can be broadly categorised as requirements to:

- obtain and maintain information about the parties to the trust or partnership (e.g. beneficiaries or partners);
- obtain and maintain information about regulated agents or service providers, i.e. third parties who provide certain services to the trust or partnership (e.g. accountants);
- keep records for a specified period of at least five years starting from the date of dissolution or termination of the relevant trust or partnership; and
- disclose the fact that the person is acting as a trustee or partner when carrying out certain business on behalf of the trust or partnership.

The Proceeds of Crime Law also introduces a power to disclose information about the trust or partnership to the authorities and certain types of businesses.

Penalties

It is important that regulated trustees and partners take these obligations seriously because the consequences of failing to comply with any of the relevant obligations can be severe.

A failure to meet any of these obligations by an unregulated trustee or partner is a criminal offence. A non-compliant unregulated trustee or partner could be liable to a maximum of five years of imprisonment and/or an unlimited fine on conviction on indictment.

Conclusion

It is fortunate that while the consequences of failing to comply can be serious compliance is likely not to be particularly difficult or onerous. We anticipate that most unregulated trustees and partners are likely already taking these steps as a matter of good governance. It is important though that unregulated trustees and partners take time to understand and ensure that they comply with these obligations.

The GFSC have released guidance to help unregulated trustees and partners better understand their obligations.¹ This guidance contains helpful details and we suggest that all unregulated trustees and partners familiarise themselves with it.

Please contact us if you have any questions about these obligations under the Proceeds of Crime Law.



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¹ [CHttpHandler.ashx \(gov.gg\)](https://www.gov.gg/CHttpHandler.ashx)