



Guernsey Registry
CONSULTATION PAPER ON CIVIL PENALTIES
ADMINISTERED BY THE GUERNSEY REGISTRY

About this consultation

On the 2nd December 2022, the Guernsey Registry (“Registry”) issued a consultation paper on behalf of the Committee *for* Economic Development (“Committee”) on amendments to legislation administered by the Guernsey Registry (“Consultation Paper”). After careful consideration of the input received from consultees, the Committee has issued a set of proposals on this subject matter for consideration by the States of Deliberation when it meets on the 19 July 2023 (“Proposals”).

The Proposals include –

- (a) the establishment of a civil penalty regime in the Limited Partnerships (Guernsey) Law, 1995 (“LP Law”) and the Foundations (Guernsey) Law, 2012 (“Foundations Law”) to compliment the regimes which already exist in the Companies (Guernsey) Law, 2008 (“Companies Law”) and the Limited Liability Partnerships (Guernsey) Law, 2013 (“LLP Law”); and
- (b) the introduction of new civil penalties in the LP Law, Foundations Law, Companies Law, and the LLP Law (together “the Commercial Laws”).

This consultation paper is seeking views from stakeholders on the Registry’s proposals concerning the levels and bandings applied to civil penalties under the Commercial Laws. Please note that the proposed changes are envisaged to apply to existing civil penalties together with the new civil penalties that are being put forward under the Proposals.

How to submit comments

Any comments with respect to these proposals should be submitted to economicdevelopment@gov.gg by the close of business on **Thursday 13 July 2023**.

CONSULTATION PAPER ON CIVIL PENALTIES ADMINISTERED BY THE GUERNSEY REGISTRY

Civil Penalty Level and Banding Proposals

This consultation paper is seeking views from stakeholders on the Registry's proposals concerning levels and bandings applied to civil penalties under the Commercial Laws.

For the purposes of attributing the correct civil penalty level, it is proposed that –

1. legal entities will be differentiated depending on the category they are classed in. **Table A** below sets out the categories for the various legal entities; and
2. each civil penalty will be attributed a banding to differentiate between the severity of the various contraventions. **Table B** below sets out the three civil penalty bands.

Table B sets out all of the civil penalty levels and bandings for existing civil penalties together with the new civil penalties that are being put forward under the Proposals. The proposals set out in this consultation paper are envisaged to be effective from the 13 October 2023 except for the civil penalties relating to non-compliance with information requests or notices (set out in Civil Penalty Band 3) which are envisaged to be effective from the 29 July 2023.

TABLE A – CATEGORISATION OF LEGAL ENTITIES

Legal Entity	Category A	Category B
Companies	non-administered company, a company that is a Guernsey registered charity or non-profit organisation	administered company
Limited Liability Partnerships	non-administered limited liability partnership	administered limited liability partnership
Limited Partnerships	non-administered limited partnership	administered limited partnership
Foundations	non-administered foundation, a foundation that is a Guernsey registered charity or non-profit organisation	administered foundation
Definitions	<p><i>For the purposes of this consultation paper,</i></p> <ul style="list-style-type: none"> • an "administered" entity is an entity licensed by the Guernsey Financial Services Commission under the supervisory laws or administered, controlled or operated by another entity licensed by the Guernsey Financial Services Commission under the supervisory laws in the course of its activities, and "non-administered" entity shall be construed accordingly; • "the supervisory Laws" has the meaning given in section 2(b) of the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020. 	

TABLE B – CIVIL PENALTY LEVELS AND BANDINGS

Civil Penalty Band	Civil Penalty	Civil Penalty Level Category A	Civil Penalty Level Category B
Civil Penalty Band 1	<ul style="list-style-type: none"> • Failure to keep records at registered office • Failure to maintain records kept at registered office and keep them accurate and up to date • Failure to notify Registrar of change to registered particulars 	sliding scale of: <ul style="list-style-type: none"> - £125 (where default is up to one week); - £250 (where default is between one week and one month); - £500 (where default is more than one month) 	sliding scale of: <ul style="list-style-type: none"> - £250 (where default is up to one week); - £500 (where default is between one week and one month); - £1000 (where default is more than one month)
Civil Penalty Band 2	<ul style="list-style-type: none"> • Failure to submit annual validation/annual renewal • Failure to carry out audit (only for large companies¹ that are unable to rely on the audit exemption) • Failure to have record of resident agent • Failure to give notice to Registrar of change to resident agent 	sliding scale of: <ul style="list-style-type: none"> - £300 (where default is up to one week); - £600 (where default is between one week and one month); - £1200 (where default is more than one month) 	sliding scale of: <ul style="list-style-type: none"> - £500 (where default is up to one week); - £1000 (where default is between one week and one month); - £2000 (where default is more than one month)
Civil Penalty Band 3	<ul style="list-style-type: none"> • Obstruction or failure to comply (without reasonable excuse) with information request or requirements • Failure by resident agent to comply with information notice requirements or to make false statements etc. in response to information notice. • Failure to have resident agent 	£2500	£2500

¹ Under the Companies (Audit Exemption) Regulations, 2008, as amended, a Guernsey company is a large company if (1) it satisfies two of the following conditions: (a) it has an annual net turnover of £10.2 million or greater, (b) it has a net balance sheet of £5.1 million or greater, or (c) it has an average number of employees of 50 or more; or (2) the company does not fall into any of the classes of company set out in regulation 2 of the Companies (Audit Exemption) Regulations, 2008.