

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY SENATOR P.F.C. OZOUF  
ANSWER TO BE TABLED ON MONDAY 9th APRIL 2018**

**Question**

Will H.M. Attorney General advise the Assembly on the appropriateness of introducing the equivalent of the 'Magnitsky Act' in Jersey and, if so, what such considerations are entailed?

**Answer**

The term 'Magnitsky Act' is derived from legislation adopted in six other jurisdictions in recent years designed to, inter alia, sanction foreign government officials implicated in human rights abuses anywhere in the world. The countries that have adopted such legislation are the United States (2016), Estonia (2016), the United Kingdom (2017 effective 31 January 2018), Canada (2017), Lithuania (2017) and Latvia (2018).

The approach in the United Kingdom is to allow the freezing and recovery of assets which were obtained through unlawful conduct, such conduct being extended by statute in 2017 to specifically extend to gross human rights abuses or violations which occur outside the United Kingdom but which if they had occurred in the United Kingdom, would amount to an offence triable by the criminal law of the United Kingdom.

The States are due to debate the draft Forfeiture of Assets (Civil Proceedings) (Jersey) Law 201- ("**the draft Law**") on 9 April 2018. This draft Law, if adopted etc., will extend the Island's non-conviction based forfeiture regime to property held in bank accounts (currently the regime only applies to cash under the Proceeds of Crime (Cash Seizure) (Jersey) Law 2008). The test for whether property is vulnerable to forfeiture under the draft Law will be whether or not it is tainted i.e. property used in, or intended to be used in, unlawful conduct or obtained in the course of, from the proceeds of, or in connection with unlawful conduct. Unlawful conduct is defined as meaning conduct constituting an offence against a law of Jersey or which, if it occurs or has occurred outside Jersey, would have constituted such an offence if occurring in Jersey, and this is a similar definition to that in the Cash Seizure Law and the Proceeds of Crime Law/Act here and in the UK.

The draft Jersey Law does not specifically refer to gross human rights abuses or violations. The operation of the draft Law if adopted will be kept under review by the Chief Minister's Department and the Law Officers' Department. Having considered the definition of "gross human rights abuses and violations" for the purpose of considering the extended definition of "unlawful conduct" under the UK Law, it is hard to envisage a gross human rights abuse or violation which would not amount to unlawful conduct under the draft Jersey Law.

Nonetheless, if there is evidence of any property being held in Jersey which would be covered by Magnitsky type legislation but is not covered by the definitions of "unlawful conduct" and "tainted property" in the draft Forfeiture of Assets (Civil Proceedings) (Jersey) Law, then urgent consideration would be given to further legislation.