APPLEBY

OVERVIEW

TAKING AND ENFORCING SECURITY OVER GUERNSEY REALTY

GUERNSEY

As a British Crown Dependency, Guernsey has a stable and reliable legal system. With a long history of political stability, a highly respected regulatory framework and its accessibility via an established infrastructure make it a desirable international offshore destination for businesses. Guernsey's agile and pro-business government, low tax regime and compliance with international standards of regulation and transparency provide a secure and competitive choice for commercial transactions.

INTRODUCTION

Insolvency is a major commercial risk. A creditor may reduce that risk by taking security over a debtor's assets. Security can give the creditor priority over unsecured creditors and later security interests, subject to the applicable priority rules.

Guernsey law distinguishes between movable and immovable property. Land and buildings are immoveable property. This overview concerns the creation and enforcement of security over Guernsey real property.

This Overview was last updated in August 2026. It is routinely reviewed by Appleby and updated when changes to the law require it. This Overview is for general guidance only and does not constitute definitive advice. Please contact one of our lawyers if you require more detailed information.

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REALTY

Taking security over Guernsey real property usually involves the debtor consenting before the Contracts Court to a bond in favour of the creditor. The bond records the secured obligation. When registered in the *Livre des Hypothèques, Actes de Cour et Obligations* at the Greffe, it creates a conventional hypothèque over the debtor's immovable property within its scope.

The conventional form is a general bond rather than a charge confined to one named property. In relation to immovables owned by the debtor when the bond is given, the bond carries a "*droit de suite*".

Unless the creditor releases the property, the charge may follow into the hands of a later owner. Although the standard wording commonly extends to future property, it does not give the creditor priority over a purchaser or heir who acquires the after-acquired property before enforcement.

Registration is central to priority. The creditor will ordinarily rank ahead of unsecured creditors and creditors whose security is registered later, in relation to the property charged. The precise scope and ranking of the security depend on the terms and legal effect of the bond, the date of registration, any priority agreement and any statutory or other preferential claims. A bond does not transfer ownership of the realty. Enforcement is ordinarily through the saisie procedure.

Security over realty may also arise judicially, through the registration of claims and judgments. A judgment debt may be registered in the *Livre des Hypothèques, Actes de Cour et Obligations*, creating a judicial hypothèque and establishing priority from the date of registration. Before judgment, a plaintiff may, with the leave of the Court, register an interlocutory act or order relating to the claim. This gives the claim a form of priority over the defendant's realty, although the Court may limit the amount registered and may later vary or revoke permission.

ENFORCEMENT OF CLAIMS BY SECURED CREDITORS

Saisie is the Guernsey procedure by which a judgment creditor may ultimately have the debtor's real property vested in them in satisfaction of debt. It is rooted in customary law. The Saisie Procedure (Simplification) (Bailiwick of Guernsey) Order, 1952, as amended, simplifies the procedure but does not codify the whole of the substantive law.

The time required depends on the circumstances, including the number of claimants and whether any stage is contested. The ordinary process has three stages.

The 1952 Order is subject to special provisions for qualifying equity release mortgages introduced by the Lending, Credit and Finance (Equity Release Mortgages) (Guernsey) Ordinance, 2026. Those provisions are not addressed in this general overview.

PRELIMINARY VESTING ORDER (PVO)

First, the creditor must obtain judgment for their debt. A judgment containing power to levy execution on the defendant's real property may be referred to as a PVO. It extends to the whole of the debtor's Guernsey real property, not only the property charged by the creditor's bond. The bond affects the creditor's priority only in relation to property which it charges.

Obtaining a PVO is generally an irrevocable election not to recover the amount under the order from the debtor's personal property, subject to limited statutory exceptions. A creditor may therefore first execute their judgment against personal property and then apply for power to execute against real property for any balance remaining.

Once a PVO has been obtained, the judgment creditor may take certain steps concerning the letting or repair of the realty. Those powers may be exercised only after the debtor has received the required written notification from HM Sheriff.

Before applying for an IVO, the judgment creditor must summon the debtor before a Commissioner of the Court. An account is produced showing the judgment debt, accrued interest and costs. The Commissioner certifies the amount due.

INTERIM VESTING ORDER (IVO)

The judgment creditor then summons the debtor before the Royal Court sitting *en Plaids d'Héritage* to pay the amount certified by the Commissioner. If it is not paid, the creditor may apply for an IVO. The Court may postpone the making or operation of the order if the circumstances make that just.

An IVO vests the whole of the debtor's real property in the judgment creditor as trustee for all claimants against the debtor's realty. The debtor is deemed to have renounced the realty and ceases to have any interest in it. This effect on the debtor's ownership is final and irreversible. The creditor must conserve and maximise any income from it for the benefit of all claimants against the debtor's property accounting for any income received.

Where the debtor owns realty jointly, the IVO severs the joint ownership. The resulting undivided interests, and any joint and several liabilities, must then be addressed in the marshalling of claims.

The judgment creditor must open a register of claims at the Greffe and advertise its opening in La Gazette Officielle. The register remains open for 28 days. Any creditor wishing to pursue a claim against the realty, whether secured or unsecured, may register that claim.

FINAL VESTING ORDER (FVO)

Once the register has closed, the holder of the IVO may apply directly for an FVO in their favour. To take that route, the creditor must undertake unconditionally to discharge all registered claims. It is therefore likely to be used only where the creditor is willing and able to meet that undertaking.

Otherwise, the holder of the IVO summons all registered claimants before a Commissioner. The claims are verified and placed in order of priority, a process known as marshalling. Bondholders and creditors with registered judicial claims will generally rank ahead of unsecured creditors. Priority between registered claims is ordinarily determined by the date of registration, subject to the scope of each charge, any priority agreement and any statutory or other preferential claims.

At the return hearing, the realty is offered to the registered claimants in reverse order of priority. Each claimant must elect either to take the realty, subject to satisfying the claims ranking ahead of their own, or to renounce their claim in the saisie. A claimant who renounces falls out of the saisie. Because participation involves an election to pursue the realty, that claimant will not ordinarily be able to pursue the debtor's personal property for the same debt.

The creditor who elects to take the realty obtains an FVO. The trust created by the IVO then ends and the realty vests in that creditor personally. The FVO is registered at the Greffe. Unless the Court otherwise directs. The creditor must pay each claimant ranking ahead of them in full within 15 days.

Under the customary law of saisie, a creditor who obtains an FVO is not obliged to sell the realty. If they do sell, they are generally not obliged to account to the former debtor for a surplus after satisfying the claims for which they are liable.

That position is subject to applicable regulatory rules. Where Rule 7.10 of the Lending, Credit and Finance Rules applies, the licensee must sell at arm’s length basis, take reasonable steps to obtain market value and return any surplus to the customer after deducting the secured debt, reasonable realisation expenses and sums payable to other creditors through the saisie.

For more specific advice on taking security in Guernsey, we invite you to contact

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ABOUT APPLEBY

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