

# Guernsey Image Rights Legislation – World's First

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## Regulatory framework

On 28 November 2012, the States of Guernsey approved the Image Rights (Bailiwick of Guernsey) Ordinance 2012 which brought into effect the world's first registrable Image Right. This legislation means that personalities or their agents, on their behalf, can now register and protect their Personality and Image Rights at The Guernsey Registry.

## Registration options

The following types of personalities can be registered:

- > Natural persons;
- > Legal persons;
- > Joint personalities (eg two or more persons who are intrinsically linked in the eyes of the public);
- > Groups (whose memberships can be interchangeable); and
- > Fictional characters (human or non-human).

The legislation also allows for the personality of a deceased person to be registered for up to 100 years after their death. Similarly, the personality of a legal person can be registered up to 100 years after its dissolution.

## Benefits

Currently no legislation exists anywhere in the world that is exclusively drafted for the protection of all aspects of someone's image. The main benefit will be to provide legal certainty for the structuring and any licensing of these Intellectual Property ("IP") Rights. These days it is not only about the talent; it is just as much, or even more, about the brand. Often a career in sport and

entertainment is at its height at a young age, and if the brand can be built and protected, it is possible to capitalise on that talent for years after retirement and even after death. Being able to register Image Rights in an environment which recognises them by statute provides greater clarity in the definition of these rights and a higher degree of protection from unauthorised use by third parties than is currently on offer in any other jurisdiction.

Another major attraction of the legislation is the fact that these rights are effectively able to be registered in perpetuity (subject to renewal fees being paid) and this provides very efficient succession and estate planning opportunities.

The legislation has been drafted in a way to compliment other IP Rights such as trademarks and copyrights. Although the Image Rights law will only apply and protect such rights registered in Guernsey, registration will also provide a useful collateral evidence in other countries of the intent to protect the proprietary image and may well add strength to other IP rights already held and registered in other territories.

## Registered image rights agent

Registered Image Rights agents need to have a place of business in Guernsey to ensure a commitment and contribution to the Island and these agents will need to comply with a Code of Practice and Regulations to ensure they are deemed fit and proper by the Guernsey IP office. Grant Howitt, who heads up our IP team at Intertrust in Guernsey, was amongst the first group of individuals to have his application to register as an Image Rights agent accepted and is therefore now eligible to make submissions. Grant was also one of the first agents to submit a registration to the Image Rights Registry on behalf of an existing client.

## Our services

The Intertrust Group both in Guernsey and globally has developed expertise in the administration and management of Image Rights and other IP Holding and licensing structures over nearly two decades and today our clients include

some of the world's top performers and artists and renowned personalities such as footballers, musicians, pop artists, DJs and fashion models. The Intertrust Intellectual Property Group focuses on convenience and tax efficiency and working with the best lawyers, accountants, agents and managers, solutions are crafted to accommodate each individual situation. The increasingly global nature of entertainment, sport and media requires a truly international perspective. With IP experts in various strategic locations including Amsterdam, Cayman Islands, Cyprus, Dublin, Guernsey, London, Luxembourg and Singapore, our Intellectual Property Group provides the skills, contacts and specialised services to capitalise on the commercial potential of a song, name or image.

## Contact

For further information on this legislation or registration requirements or for any requests regarding our services in respect of Image Rights and other IP rights please contact Grant Howitt or Chris Jounning of our Intellectual Property team in Guernsey.

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