

GUERNSEY STATUTORY INSTRUMENT

2002 NO. 28

The Data Protection (Transfer in the Substantial Public Interest) Order, 2002

Made

14th August 2002

Coming into operation

14th August 2002

Laid before the States

2002

THE STATES ADVISORY AND FINANCE COMMITTEE, in exercise of the powers conferred on it by paragraph 4(2) of Schedule 4 to, and section 66(2) of, the Data Protection (Bailiwick of Guernsey) Law, 2001^a, and all other powers enabling it and after consultation with the Data Protection Commissioner in accordance with section 66(3) of that Law, hereby makes the following Order -

Circumstances in which transfer is necessary for reasons of substantial public interest.

1. For the purposes of paragraph 4(1) of Schedule 4 to the Law, the circumstances specified in the Schedule to this Order are circumstances in which a transfer of personal data made by a relevant person -

(a) is necessary; or

(b) is to be taken as necessary,

for reasons of substantial public interest.

^a

Order in Council No. V of 2002.

Interpretation.

2. (1) The provisions of the Interpretation (Guernsey) Law, 1948^b apply to the interpretation of this Order -

(a) throughout the Bailiwick; and

(b) as they apply to the interpretation of an enactment.

(2) Unless the context otherwise requires, references in this Order to an enactment are references thereto as amended, re-enacted (with or without modification), extended or applied.

(3) In this Order, unless the context otherwise requires -

“the Commission” has the meaning given in section 24(1) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^c and includes -

(a) a member, officer or servant of the Commission acting in the discharge or exercise of his functions or duties on behalf of -

(i) the Commission; or

(ii) a committee of the States; and

(b) any other person carrying out functions or exercising

^b Ordres en Conseil Vol. XIII, p. 355.

^c Ordres en Conseil Vol. XXX, p. 243; Orders in Council No. XX of 1991; No. XIII of 1994; No. II of 1997; No. I of 1998 and No. I of 2001

powers on behalf of the Commission;

“committee of the States” means any committee (however described) of the States of Guernsey, States of Alderney or the Chief Pleas of Sark;

“the Law” means the Data Protection (Bailiwick of Guernsey) Law, 2001;

“relevant person” means the Commission or the Stock Exchange; and

“the Stock Exchange” means the Channel Islands Stock Exchange LBG and includes -

- (a) a member, officer or servant of the Stock Exchange acting in the discharge or exercise of his functions or duties on behalf of the Stock Exchange; and
- (b) any other person carrying out functions or exercising powers on behalf of the Stock Exchange.

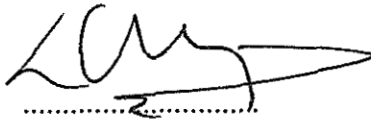
Citation.

3. This Order may be cited as the Data Protection (Transfer in the Substantial Public Interest) Order, 2002.

Commencement.

4. This Order shall come into force on the 14th August, 2002.

Dated this 14th day of August, 2002.

A handwritten signature in black ink, appearing to be 'L. C. Morgan', written over a dotted line.

L. C. MORGAN

President of the States Advisory and Finance Committee

For and on behalf of the Committee.

SCHEDULE

SPECIFIED CIRCUMSTANCES

The transfer takes the form of a disclosure which is permissible by or under any enactment and the transfer is made upon condition that the recipient does not transfer the personal data concerned to any third party except -

- (a) with the consent of the relevant person making the transfer;
- (b) with the consent of the data subject; or
- (c) in order to comply with the order of a court having relevant jurisdiction.

EXPLANATORY NOTE.

(This note is not part of the Order)

The eighth data protection principle restricts the transfer of data to a country or territory outside the Bailiwick unless that country or territory ensures a level of protection perceived to be adequate for the purposes of the Data Protection Directive. This Order sets out the limited circumstances in which the Guernsey Financial Services Commission (and its members, officers or servants) or the Channel Islands Stock Exchange (and its members, officers or servants) may transfer personal data outside the Bailiwick without necessarily complying with the eighth data protection principle.