

# Island of Guernsey

## Ordinance of the States IX 1993

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Made	... ..	28th April, 1993.
Came into operation	... ..	28th April, 1993.

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### **The Data Protection (Functions of Designated Authority) Ordinance, 1993**

**THE STATES**, in exercise of the powers conferred upon them by section 35 of the Data Protection (Bailiwick of Guernsey) Law, 1986(a), hereby order:-

#### **Functions of Committee**

1. The functions to be discharged by the Committee in its capacity as the designated authority in the Bailiwick for the purposes of Article 13 of the European Convention shall be those specified in the Schedule to this Ordinance.

#### **Citation**

2. This Ordinance may be cited as the Data Protection (Functions of Designated Authority) Ordinance, 1993.

## SCHEDULE

## Section 1

Functions to be discharged by the Committee as  
Designated Authority for the Purposes of Article 13 of  
the European Convention

1. (1) In this Schedule -

"the Law" means the Data Protection  
(Bailiwick of Guernsey) Law, 1986;

"designated authority" means an authority  
designated for the purposes of Article 13 of the  
European Convention by a party, other than the  
Bailiwick, which is bound by that Convention;

"request", except in paragraph 2 below,  
means a request for assistance under Article 14  
of the European Convention which states -

- (a) the name and address of the person  
making the request;
- (b) particulars which identify the personal  
data to which the request relates;
- (c) the rights under Article 8 of the  
European Convention to which the  
request relates;
- (d) the reasons why the request has been  
made,

and "requesting person" means a person making  
such a request.

(2) In this Schedule any reference to an article is a reference to an article in the European Convention and any reference to a section is a reference to a section of the Law.

2. (1) The Committee shall, at the request of a designated authority, furnish to that authority information relating to any of the following matters -

- (a) the procedures followed by it in discharging its functions under the Law;
- (b) entries made by it in the register under section 3(1) of the Law which are specified in the request;
- (c) the data protection legislation in force in the Bailiwick at the time the request is made;
- (d) the codes of practice, if any, disseminated by trade associations, or other bodies representing data protection users, to their members for guidance in complying with the data protection principles.

(2) The Committee shall, at the request of a designated authority, take appropriate measures, as required by Article 13(3)(b), for furnishing to that Authority information relating to the processing of data in the Bailiwick.

(3) The Committee may request a designated authority to furnish to it or, as the case may be, to take appropriate measures for furnishing to it, the information referred to in Article 13(3).

3. (1) This paragraph applies where a requesting person resident outside the Bailiwick makes a request to the Committee seeking assistance in exercising any of the rights referred to in Part III of the Law.

(2) If the request -

(a) seeks assistance in exercising the right under section 19 (right of access to personal data); and

(b) does not indicate that the data user has failed, contrary to section 19, to comply with the same request on a previous occasion,

the Committee shall notify the requesting person of the data user's address for the receipt of requests from data subjects for access to data and of such other information as the Committee considers necessary to enable that person to exercise his right under section 19.

(3) If the request indicates that a data protection principle has been contravened by a data user the Committee shall either -

(a) notify the requesting person of the rights of data subjects and the

remedies available to them under Part III of the Law together with such particulars as are contained in the data user's entry in the register; or

- (b) if the Committee considers that notification in accordance with subparagraph (a) would not assist the requesting person or would, for any other reason, be inappropriate, treat the request as if it were a complaint which falls to be dealt with under section 34(2).

(4) The Committee shall not be required, in response to any request referred to in paragraphs (2) and (3) above, to supply to the requesting person a duly certified copy in writing of the particulars contained in the entry made in the register in pursuance of any application for registration other than on payment of such fee as is prescribed for the purposes of section 8(2).

4. (1) Where a request for assistance in exercising any of the rights referred to in Article 8 in a country or territory (other than the Bailiwick) specified in the request is made by a person resident in the Bailiwick and submitted through the Committee under Article 14(2), the Committee shall, if it is satisfied that the request is addressed to the appropriate person, send it to the designated authority in the specified country or territory.

(2) If the Committee decides that it is not required by sub-paragraph (1) to render assistance to the requesting person it shall, where practicable, notify that person of the reasons for its decision.

5. Where the Committee receives information from a designated authority as a result of either -

(a) a request made by it under paragraph 2(3) above; or

(b) a request received by it under paragraph 3 above,

the Committee shall use that information only for the purposes specified in the request.

K. H. TOUGH,  
Her Majesty's Greffier.