

GREFFE
ROYAL COURT

25 JUN 2010

GUERNSEY

GUERNSEY STATUTORY INSTRUMENT

2010 No. 59

**The Data Protection (Subject Access) (Fees and
Miscellaneous Provisions) (Amendment) Regulations, 2010**

Made

24th June 2010

Coming into operation

24th June 2010

Laid before the States

THE HOME DEPARTMENT, in exercise of the powers conferred on it by sections 7(2), (7), (8) and (12) (having regard to the definitions of "prescribed", "the prescribed maximum" and "the prescribed period" in section 7(11)), 8(1) and 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 -

Amendment of 2002 Regulations.

1. For regulation 2 of the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations, 2002^b, substitute -

"Maximum subject access fee.

2. Except as otherwise provided by regulations 3 and 4, the maximum fee which may be required by a data controller under section 7(2)(b) of the Law is -

^a Order in Council No. V of 2002.

^b G.S.I 2002 No 23

- (a) in relation to a request made under section 7 of the Law relating wholly, or partly, to personal data forming part of a health record -
 - (i) where the information is provided in a form other than in writing on paper, £50, or
 - (ii) where the information is provided in writing on paper -
 - (A) where the number of pages of information does not exceed 10, £10,
 - (B) where the number of pages exceeds 10, but does not exceed 100, £50, or
 - (C) where the number of pages exceeds 100, £0.50p per page or part thereof; and
- (b) in any other case, £10.

Duty to provide estimate.

2A. A data controller must, when requested in writing by a person wishing to make a request under section 7 of the Law, provide that person with a written estimate of the cost of complying with the request, in any case where the data controller determines that the cost of the provision of the information is likely to exceed £10."

Interpretation.

2. (1) The provisions of the Interpretation (Guernsey) Law, 1948^c apply to the interpretation of these Regulations -

(a) throughout the Bailiwick; and

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

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

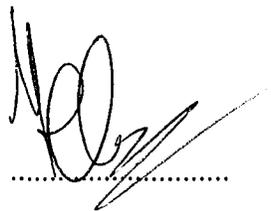
Citation.

3. These Regulations may be cited as the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) (Amendment) Regulations, 2010.

Commencement.

4. This Order shall come into force on the 24th day of June 2010.

Dated this 24th day of June , 2010.

A handwritten signature in black ink, appearing to be 'F.W. Quin', written over a horizontal dotted line.

DEPUTY F.W.QUIN

Deputy Minister of the States Home Department

For and on behalf of the Home Department.

^c

Ordres en Conseil Vol. XIII, p. 355.

EXPLANATORY NOTE.

(This note is not part of the Regulations)

These Regulations amend regulation 2 of the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations, 2002 ("the Principal Regulations").

Under the Regulations, regulation 2 of the Principal Regulations is replaced with fresh provision providing that, except in the special cases set out in regulations 3 and 4, the maximum fee which a data controller may require for access to data under section 7(2) of the Law is -

in the case of health records, where the information is provided in a form other than in writing on paper, £50 or where the information is provided in writing on paper, a fee which varies according to the number of pages of information provided; and

in all other cases, £10.

The regulations also insert new provision in the Principal Regulations which requires a data controller to provide a person wishing to make a request under section 7 of the Law with an estimate of the cost of complying with the request, where the data controller considers that this will exceed £10.