

GUERNSEY STATUTORY INSTRUMENT

2010 No. 7

**The Data Protection (Notification and Notification Fees)
(Amendment) Regulations, 2010**

Made

1st February, 2010

Coming into operation

1st March, 2010

Laid before the States

, 2010

THE HOME DEPARTMENT, in exercise of the powers conferred on it by sections 18(5), 19(4), (5), 26 and 66(1) and (2) of the Data Protection (Bailiwick of Guernsey) Law, 2001^a, and after consultation with the Data Protection Commissioner in accordance with section 25(4)(b) of that Law, hereby makes the following Regulations :-

Amendment of 2002 Regulations.

1. (1) The 2002 Regulations are amended as follows.

(2) In regulation 5 (fees to accompany notification under section 18 of the Law), for paragraph (2) substitute the following paragraph -

^a Order in Council No. V of 2002 as amended by the Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance, 2010 and as modified by Ordinance No. XXIV of 2004, the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Sark) Ordinance, 2004 and the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009 and G.S.I. Nos.14, 15, 16 and 24 of 2002.

"(2) A notification to which this regulation applies must be accompanied by a fee of £50 except that no fee shall be payable in respect of a notification -

- (a) made by an elected representative, where that notification is made for the purposes of lawfully carrying out functions as such a representative, or
- (b) made by a body or association which is not established or conducted for profit."

(3) In regulation 12(2) (retention of register entries), for paragraph (2) substitute the following paragraph -

"(2) In relation to an entry to which this regulation applies, the fee referred to in section 19(4) of the Law is £50 except that no fee shall be payable in respect of the retention of an entry made in respect of a notification -

- (a) made by an elected representative, where that notification was made for the purposes of lawfully carrying out functions as such a representative, or
- (b) made by a body or association which is not established or conducted for profit."

(4) In paragraph 5(c)(i) and (ii) of the Schedule, for the word "organisation" substitute "association".

Consequential revocation.

2. Regulation 1(a) of the Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2004^b is revoked.

Interpretation.

3. (1) In these Regulations -

"**the 2002 Regulations**" means the Data Protection (Notification and Notification Fees) Regulations, 2002^c,

"**enactment**" means any Law, Ordinance or subordinate legislation, and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect.

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

(3) Unless the context otherwise requires, references in these

^b G. S. I. No. 73 of 2009, signed by Michael Torode as Minister of the States Home Department on 15th December, 2004.

^c G.S.I. No. 24 of 2002 as amended by G.S.I. No. 73 of 2009, signed by Michael Torode as Minister of the States Home Department on 15th December, 2004 and G.S.I. No. 38 of 2009.

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

Regulations to an enactment are references thereto as amended, re-enacted (with or without modification), extended or applied.

Citation and Commencement.

4. These Regulations may be cited as the Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2010 and shall come into force on the 1st day of March 2010.

Dated this *1st* day of February, 2010.



G.H.MAHY

Minister of the States Home Department

For and on behalf of the Department.

EXPLANATORY NOTE.

(This note is not part of these Regulations)

These Regulations amend the Data Protection (Notification and Notification Fees) Regulations, 2002 so as to increase the prescribed fee for a notification and for retention on the register, under sections 18(5) and 19(4) of the Data Protection (Bailiwick of Guernsey) Law, 2001, from £35 to £50.

They also provide for an exemption from both fees for not for profit organisations and for elected representatives, as defined in the 2002 regulations, from the retention fee. Elected representatives are already exempt from the notification fee.