

GUERNSEY STATUTORY INSTRUMENT

2015 No. 99

**The Data Protection (Subject Access Exemptions)  
(Guernsey) Order, 2015**

*Made* 27<sup>TH</sup> NOVEMBER, 2015  
*Coming into operation* 27<sup>TH</sup> NOVEMBER, 2015  
*Laid before the States* , 2015

**THE HOME DEPARTMENT**, in exercise of the powers conferred on it by sections 38 and 66 of the Data Protection (Bailiwick of Guernsey) Law, 2001<sup>a</sup>, hereby orders:-

**Exemption for trusts.**

1. Personal data in respect of a trust are exempt from section 7 of the Data Protection (Bailiwick of Guernsey) Law, 2001 to the extent that -

- (a) in the case of a Guernsey trust, the personal data consist of information the withholding of which by the relevant data controller is authorised by section 38 of the Trusts (Guernsey) Law, 2007<sup>b</sup> or the disclosure of which by the relevant data controller would be contrary to a prohibition or restriction under any rule

<sup>a</sup> Order in Council No. V of 2002; as amended by Ordinance No. XXXIII of 2003; No. II of 2010; No. XXXIV of 2011; No. XLIX of 2012; and No. XXIX of 2013.

<sup>b</sup> Order in Council No. III of 2008.

of law, whether statutory or customary, of Guernsey,  
or

- (b) in the case of a foreign trust, the personal data consist of information the withholding of which by the relevant data controller is authorised by or under the proper law of that trust or the disclosure of which by the relevant data controller would be contrary to a prohibition or restriction under that proper law.

**Interpretation.**

2. (1) In this Order, unless the context requires otherwise -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

and other expressions have the same meanings as in the Data Protection (Bailiwick of Guernsey) Law, 2001.

- (2) The Interpretation (Guernsey) Law, 1948<sup>c</sup> applies to the interpretation of this Order.

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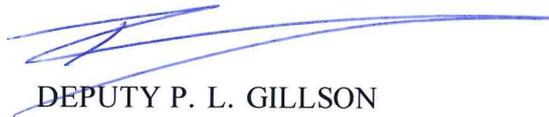
<sup>c</sup> Ordres en Conseil Vol. XIII, p. 355.

(3) Any reference in this Order to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation and commencement.**

3. This Order may be cited as the Data Protection (Subject Access Exemptions) (Guernsey) Order, 2015 and shall come into force on the day on which it is made.

Dated this 27<sup>TH</sup> day of NOVEMBER, 2015



DEPUTY P. L. GILLSON

Minister of the States Home Department

For and on behalf of the Department

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EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order exempts from section 7 of the Data Protection (Bailiwick of Guernsey) Law, 2001 (which entitles an individual to have access to data held in respect of that individual) the non-disclosure provisions of section 38 of the Trusts (Guernsey) Law, 2007 and equivalent provisions in Guernsey and other jurisdictions. This means that, in accordance with trusts law, section 7 does not oblige a trustee to disclose data concerning his deliberations as to the exercise of his functions, the reason for any decisions made, any material on which such decisions were based, nor any letter of wishes.

This Order comes into force on the day on which it is made.

