

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* G.S.I. No. 28 of 2002; as amended by the Data Protection (References to Committees of the States) (Miscellaneous Amendments) Order, 2010 (G.S.I. No. 8 of 2010); the Data Protection (Transfer in the Substantial Public Interest) (Amendment) Order, 2015 (G.S.I. No. 29 of 2015); the Data Protection (Transfer in the Substantial Public Interest) (Amendment) Order, 2017 (G.S.I. No. 92 of 2017).

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ARRANGEMENT OF ARTICLES

1. Circumstances in which transfer is necessary for reasons of substantial public interest.
2. Interpretation.
3. Citation.
4. Commencement.

SCHEDULE Specified Circumstances.

Explanatory Note.

(Made on 1st August, 2002.)

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

Interpretation.

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

^a Order in Council No. V of 2002.

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

- (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 department of the States or a committee of the States of Alderney or the Chef Pleas of Sark, and]
 - (ii) a committee of the States, and
- (b) any other person carrying out functions or exercising powers on behalf of the Commission,

^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.

[...]

"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 International Stock Exchange Authority Limited (Guernsey company registration number 57527] 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.

NOTES

In article 2,

paragraph (3)(a)(ii) was substituted, and the words omitted in square brackets in paragraph (3) were repealed, by the Data Protection (References to Committees of the States) (Miscellaneous Amendments) Order, 2010, respectively article 1(4)(a) and article 1(4)(b), with effect from 1st March, 2010;

the words in square brackets in the definition of the expression "the Stock Exchange" in paragraph (3) were substituted by the Data Protection (Transfer in the Substantial Public Interest) (Amendment) Order, 2017, article 1, with effect from 26th April, 2017.¹

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.

SCHEDULE
SPECIFIED CIRCUMSTANCES

Article 1

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.

¹ These words were previously substituted, in part, by the Data Protection (Transfer in the Substantial Public Interest) (Amendment) Order, 2015, article 1, with effect from 20th April, 2015.

** The text of this Explanatory Note is as it was when the Statutory Instrument was first made – that is to say that the Explanatory Note has not been updated to take account of any changes made by subsequent amending Statutory Instruments with their own Explanatory Notes.