



The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020

Made

6th January 2020

Coming into operation

7th January, 2020

Laid before the States

, 2020

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 7(1) and 109 of, and paragraph 17(a) of Schedule 2, to the Data Protection (Bailiwick of Guernsey) Law, 2017^a and all other powers enabling it in that behalf, following consultation with the Data Protection Authority, hereby makes the following Regulations:-

Amendments to the 2018 Regulations.

1. The Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018^b ("the principal Regulations") are amended as follows.

2. In regulation 11, after paragraph (2), insert the following paragraph –

"(3) Row 2A of the table in Schedule 2 has no effect in Alderney or Sark."

3. In the table in Schedule 2 to the principal Regulations, immediately after row 2, insert the following row –

^a Order in Council No. VI of 2018; as amended by Ordinance No. X of 2018; Sark Ordinance No. VIII of 2018; G.S.I. No. 21 of 2018.

^b G.S.I. No. 21 of 2018; as amended by G.S.I. Nos. 69 and 115 of 2019.

"2A.	Any personal data	<p>Any committee of the States of Guernsey, or any public committee (within the meaning of s. 111(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017) of the States of Guernsey in receipt of public funds, (collectively a "scrutinised committee") to which a request for information is made by or on behalf of the Scrutiny Management Committee ("Scrutiny Committee") of the States of Guernsey in carrying out its function* of leading and coordinating the scrutiny of that committee ("its scrutiny function").</p> <p>*For the avoidance of doubt, this provision applies even if the request is made for the purpose of a review or an inquiry commenced by the Scrutiny Committee (in the exercise of its scrutiny function) before the commencement of the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020.</p>	To assist or facilitate the Scrutiny Committee to carry out its scrutiny function, in response to the request for information.	<p>Personal data must not be disclosed to the Scrutiny Committee unless –</p> <p>(a) that committee undertakes not to process any of that personal data other than as necessary for the purpose of carrying out its scrutiny function or any other purpose contemplated by a fair processing notice given to the scrutinised committee, and</p> <p>(b) further, in the case of personal data relating to any data subject other than a member of a scrutinised committee, that committee undertakes not to publish that personal data without the consent of the data subject concerned."</p>
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Citation.

4. These Regulations may be cited as the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020.

Commencement.

5. These Regulations come into force on the 7th January, 2020.

Dated this 6th day of January, 2020



Deputy Mary Lowe

President of the Committee for Home Affairs

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018 ("the **principal Regulations**") to authorise a further form of processing of personal data.

Currently the Scrutiny Management Committee coordinates or leads the scrutiny of States of Guernsey committees and organisations that receive public funds under the mandate given to it by the States of Deliberation. In order to carry out this scrutiny function effectively, it needs to obtain information from those committees and organisations. Often the information obtained from such a committee or organisation in a particular case contains personal data within the meaning of the Data Protection (Bailiwick of Guernsey) Law, 2017 ("the **DP Law**").

These Regulations are intended to remove a potential obstacle to the scrutinised committee or organisation disclosing that personal data to the Scrutiny Management Committee. These Regulations *authorise* the processing of personal data in certain circumstances and subject to specified conditions, and (for the purpose of section 7(1) of the DP Law) provide a lawful basis for processing personal data in those circumstances and under those conditions. Any processing of personal data in accordance with this authorisation would be deemed compatible with the purpose for which that data was collected (in line with the principle in section 6(2)(b) of the DP Law), by virtue of section 9(3)(c) of the DP Law.

However, these Regulations do not *require* any scrutinised committee or organisation to disclose personal data to the Scrutiny Management Committee and do not *negate* the application of any of the other applicable duties and data protection principles in the DP Law. For example, both scrutinised committees and the Scrutiny Management Committee would need to comply with the principle that personal data must be processed fairly and in a transparent manner (in section 6(2)(a) of the DP Law), and that personal data processed must be adequate, relevant and limited to what is necessary in relation to the purpose of the processing (in section 6(2)(c) of the DP Law).

The authorisation applies to a request for information made for the purpose of a review or an inquiry commenced by the Scrutiny Committee (in the exercise of its scrutiny function) before the commencement of the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020.

Regulations 1 and 3 of these Regulations insert a new row 2A in Schedule 2 to the principal Regulations.

The new row 2A, read with regulation 11 of the principal Regulations, specifically authorises committees of the States of Guernsey as well as public committees (any

authority, board, committee or council of the States of Guernsey constituted by or under a resolution, Law or Ordinance approved by the States of Guernsey, to process (including disclose) information where necessary to assist or facilitate the Scrutiny Management Committee to carry out its scrutiny function, in response to a particular request made by the Scrutiny Management Committee.

Apart from the other duties and obligations which would apply to the Scrutiny Management Committee's control of the personal data under the DP Law, there are additional safeguards in the conditions of the authorisation. The scrutinised committee must not disclose the personal data of any data subject to the Scrutiny Management Committee unless the Scrutiny Management Committee undertakes not to process any of that personal data other than as necessary for the purpose of carrying out its scrutiny function or any other purpose contemplated in a fair processing notice given to the scrutinised committee. In addition, in the case of the personal data of any data subject other than a member of a scrutinised committee, that data must not be disclosed to the Scrutiny Management Committee unless the Scrutiny Management Committee undertakes not to publish that personal data without the consent of the data subject concerned.

Regulation 2 of these Regulations inserts a new paragraph (3) at the end of regulation 11. This new paragraph provides that the new row 2A inserted in Schedule 2 to the principal Regulations has no effect in Alderney or Sark (in fact, the amendment made by these Regulations only affects States of Guernsey committees or bodies established by the States of Guernsey and receiving public funds).

Regulations 4 and 5 are the citation and commencement provisions respectively.

These Regulations will come into force on the 7th January, 2020.

