

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018 *

[CONSOLIDATED TEXT]

NOTE

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* G.S.I. No. 21 of 2018; as amended by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019 (G.S.I. No. 69 of 2019); the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2019 (G.S.I. No. 115 of 2019); the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020 (G.S.I. No. 2 of 2020); the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020 (G.S.I. No. 92 of 2020); the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020 (G.S.I. No. 150 of 2020).

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018

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(Made on 13th May, 2018.)

The Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 7(1), 16(5)(b), 37(1)(a) and (c), 39, 40, 59(1)(k), 96 and 109 of, and paragraph 17(a) of Schedule 2, paragraphs 1(2), 2 and 3(b) of Schedule 4, and paragraph 19 of Schedule 8 to, the Data Protection (Bailiwick of Guernsey) Law, 2017^a, section 6(5)(b) of, and paragraph 7(a) of Schedule 2 to, the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018^b, and all other powers enabling it in that behalf, following consultation with the Policy and Finance Committee of the States of Alderney, the Policy and Performance Committee of the Chief Pleas of Sark and the former Commissioner, hereby makes the following Regulations: –

PART I

REGISTRATION AND RETURNS

Interpretation of Parts I and II.

A1. In this Part, Part II and Schedules 1, 1A, 1B, 1C and 1D –

"administered entity", in relation to any levy collection agent ("A"), means a person for whom A is a levy collection agent within the meaning of regulation D1,

^a Order in Council No. VI of 2018; as amended by the Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018 (Ordinance No. * of 2018).

^b Ordinance No. * of 2018

"Alderney public entity" has the meaning given by Schedule 1A,

"certificate of exemption" means a certificate given to an administered entity under regulation 6A,

"company" means –

- (a) a company within the meaning of sections 1 and 2 of the Companies (Guernsey) Law, 2008,
- (b) a company the memorandum and articles of which are registered in the Register of Companies within the meaning of section 163(1) of the Companies (Alderney) Law, 1994, or
- (c) an external company registered in the Register of External Companies under section 3 of the Companies (Alderney) Law (External Companies) Ordinance, 1998,

"exempt person" – see regulation C1,

"foundation" means a foundation created under the Foundations (Guernsey) Law, 2012,

"full-time equivalent employees" are to be calculated in accordance with Schedule 1D,

"Guernsey public entity" has the meaning given by Schedule 1B,

"large organisation" means a person that employs 50 or more full-

time equivalent employees,

"levy collection agent" – see regulation D1,

"limited liability partnership" means a limited liability partnership incorporated under the Limited Liability Partnerships (Guernsey) Law, 2013,

"limited partnership" means a limited partnership in respect of which there is a valid certificate of registration under the Limited Partnerships (Guernsey) Law, 1995,

"Registry number", in relation to any company, foundation or limited liability partnership, means the number allocated to the company, foundation or (as the case may be) limited liability partnership by the Registrar of Companies, the Registrar (under the Companies (Alderney) Law, 1994), the Registrar of Foundations or (as the case may be) the Registrar of Limited Liability Partnerships,

"return date", in relation to any return year, means midnight of the 31st December last preceding the return year,

"return year", in relation to any levy collection agent required to make a return under regulation 5A, means the calendar year in which the levy collection agent is required to make the return, and

"Sark public entity" has the meaning given by Schedule 1C.]

NOTE

Regulation A1 was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 2, with effect from 1st January, 2021.

[Exemptions from registration.]

B1. The following are exempt from the requirement to register as a controller or processor under section 39(1) of the Law –

- (a) an exempt person, and
- (b) a controller or (as the case may be) processor that only causes or permits personal data to be processed in circumstances where the processing –
 - (i) is occasional,
 - (ii) does not include any large-scale or systematic processing, and
 - (iii) is not high-risk processing.]

NOTE

Regulation B1 was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 2, with effect from 1st January, 2021.

[Meaning of "exempt person".]

C1. (1) A person is an exempt person at any time ("**the exemption date**") if the person –

- (a) is a relevant entity, and
- [(b) satisfies either –

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- (i) both conditions A and A1, or
 - (ii) condition B,]
- (2) Condition A is that the person –
- (a) is a company incorporated or registered under the Companies (Guernsey) Law, 2008,
 - (b) is a company the memorandum and articles of which were registered in the Register of Companies within the meaning of section 163(1) of the Companies (Alderney) Law, 1994,
 - (c) is an external company registered in the Register of External Companies under section 3 of the Companies (Alderney) Law (External Companies) Ordinance, 1998,
 - (d) is a foundation registered under the Foundations (Guernsey) Law, 2012,
 - (e) is a limited liability partnership registered under the Limited Liability Partnerships (Guernsey) Law, 2013,
or
 - (f) is a limited partnership registered under the Limited Partnerships (Guernsey) Law, 1995,

and the incorporation or (as the case may be) registration took place [at any time

during the calendar year in which the exemption date falls].

[(2A) Condition A1 is that as at the exemption date –

- (a) the person ("**the exemptable person**") had authorised another person ("**the agent**") in writing to act as a levy collection agent for the exemptable person for the purposes of these Regulations and the authorisation was in effect, and
- (b) the agent had agreed to act as a levy collection agent for the exemptable person and the agreement was in effect.]

(3) Condition B is that –

- (a) at midnight of the 31st December last preceding the exemption date, there was a levy collection agent (within the meaning of regulation D1) for the person, and
- (b) either –
 - (i) that person authorised a levy collection agent for the very first time in the calendar year in which that 31st December occurred and the exemption date falls on or before the 31st March of the following calendar year, or
 - (ii) that person holds a valid certificate of exemption as at the exemption date.

(4) For the purposes of paragraph (1)(a), a person is a relevant entity if the person –

- (a) is a company, a foundation, a limited liability partnership or a limited partnership,
- (b) is not a large organisation,
- (c) is not a non profit organisation,
- (d) is not required under the Law to designate a data protection officer, and
- (e) is not a levy collection agent for any other person.]

NOTES

Regulation C1 was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 2, with effect from 1st January, 2021.

In regulation C1, first, subparagraph (b) of paragraph (1) and, second, the words in square brackets in paragraph (2) were substituted and, third, paragraph (2A) was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020, regulation 2, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 1st January, 2021.

[Meaning of "levy collection agent".

D1. [...] A person ("A") is a levy collection agent for any other person ("B") if –

- (a) A is –

- (i) a licensed fiduciary holding a full fiduciary licence, where "**licensed fiduciary**" and "**full fiduciary licence**" have the respective meanings given by section 58(1) of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000,
- (ii) a licensed institution within the meaning of section 56(1) of the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (iii) a licensed insurer within the meaning of Schedule 5 to the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (iv) a licensed insurance intermediary or licensed insurance manager within the meaning of Schedule 3 to the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,
- (v) a person carrying on a financial services business registered under the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008, or
- (vi) a person licensed to carry on a controlled investment business under the Protection of Investors (Bailiwick of Guernsey) Law, 1987,

- (b) B has authorised A in writing to act as a levy collection agent for B for the purposes of these Regulations and the authorisation is in effect, and
- (c) A has agreed to act as a levy collection agent for B and the agreement is in effect.]

NOTES

Regulation D1 was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 2, with effect from 1st January, 2021.

In regulation D1, the parentheses and figure omitted in square brackets were revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020, regulation 3, with effect from 1st January, 2021.

The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 has since been repealed by the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022, section 91, Schedule 2, paragraph 1, with effect from 1st July, 2023, subject to the savings and transitional provisions in section 93 of the 2022 Law.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

Applications in respect of partnerships.

1. (1) This regulation applies where two or more individuals carry on

a business in partnership and are the controllers in respect of any personal data processed in the context of the business.

(2) An application for registration may be made in the name of the firm by any of those individuals on behalf of all the individuals in the partnership.

(3) Where an application for registration is made in accordance with paragraph (2) and the Law, the Authority must register all the individuals in the partnership as controllers –

(a) under the name of the firm, and

(b) using the address of the principal place of business of the firm as the address of those controllers.

(4) In this regulation, "**the firm**" means the business or the partnership.

Registration fees.

2. [(1) The fee payable in respect of an application for registration is the registration fee specified in column 2 of Schedule 1 in relation to the controller or processor described in column 1 of that Schedule.]

(2) ...

(3) The fee payable in respect of any application must be included in the application.

(4) ...

NOTE

In regulation 2, first, paragraph (1) was substituted and, second paragraph (2) and paragraph (4) were revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 3, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2021.¹

Other requirements for applications.

3. [(1) A person applying for registration as a controller or processor must include the following information in the application –

- (a) the name, principal business address and contact details of the person,
- (b) whether the person is a controller, processor, or both in respect of the personal data being or to be processed,
- (c) if the person has designated a representative for that person in the Bailiwick under section 38 of the Law, the name, principal business address and contact details of the representative,
- (d) if the person has a data protection officer, the name, principal business address and contact details of the data protection officer,
- (e) if the person is a company, foundation or limited liability partnership, the Registry number allocated to that person,
- (f) whether the person has agreed to act as a levy collection agent for another person, and if so, any reference

number allocated or assigned to the person (the levy collection agent) by the Guernsey Financial Services Commission, and

(g) whether or not the person employs 50 or more full-time equivalent employees.]

(2) ...

(3) As soon as practicable after registering a controller or processor, the Authority must give written notice of the registration to the controller or processor concerned.

(4) ...

NOTE

In regulation 3,

paragraph (1) was substituted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 4, with effect from 1st January, 2021;²

first, paragraph (2) and, second, paragraph (4) were revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 3, respectively paragraph (a) and paragraph (b), with effect from 25th May, 2019.

Authority to [maintain] register particulars.

4. (1) The Authority must –

(a) maintain, in the register kept under paragraph 3(a) of Schedule 4 to the Law, the most up-to-date register particulars available to the Authority of each controller

and each processor[.]

(b) ...

(2) In these Regulations, "**register particulars**" in relation to any controller or processor –

(a) means information of the kind provided by the controller or processor in accordance with regulation 3(1) [or in a return made under regulation 5A or 5B], and

(b) includes any information of that kind provided [...], or in an information return under regulation 5, made by the controller or processor.

NOTES

In regulation 4,

first, the word in square brackets in the heading thereto was substituted, second, the punctuation in square brackets at the end of paragraph (1)(a) was substituted and, third, subparagraph (1)(b) was revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 4, respectively paragraph (a), paragraph (b)(i) and paragraph (b)(ii), with effect from 25th May, 2019;

first, the words in square brackets in paragraph (2)(a) were inserted and, second, the words omitted in square brackets in paragraph (2)(b) were revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 5, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2021.

Registered controllers and processors to notify necessary changes.

5. (1) A registered controller or registered processor must give the Authority an information return made in accordance with paragraph (2) consisting of

a written notice of –

(a) any respect in which the register particulars last [given to the Authority by and] in respect of the controller or processor is inaccurate or incomplete as a statement of the particulars applying to that controller or processor, [and]

(b) ...

[(c) the changes that need to be made to the register particulars mentioned in subparagraph (a) in order to make those particulars accurate or complete.]

(2) The information return in paragraph (1) must be made –

(a) as soon as practicable, and

(b) in any event, within a period of 28 days from the date on which the register particulars [become] inaccurate or incomplete.

(3) A person who fails to comply with or contravenes paragraph (1) commits an offence.

(4) A person guilty of an offence under paragraph (3) is liable on summary conviction or conviction on indictment to a fine not exceeding level 5 on the uniform scale.

(5) ...

NOTE

In regulation 5, first, the words in the first pair of square brackets in paragraph (1)(a) were substituted, second, the word in the second pair of square brackets therein were inserted, third, paragraph (1)(b) was revoked, fourth, paragraph (1)(c) was substituted, fifth, the word in square brackets in paragraph (2)(b) was substituted and, sixth, paragraph (5) was revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 5, respectively paragraph (a)(i), paragraph (a)(ii), paragraph (a)(iii), paragraph (a)(iv), paragraph (b) and paragraph (c), with effect from 25th May, 2019.

[Levy collection agents to make annual returns.]

5A. (1) In 2021 and each subsequent calendar year, a levy collection agent registered as a controller or processor must give the Authority an annual return in accordance with paragraph (2) –

- (a) including the information specified in regulation 3(1)(a) to (f) (inclusive of both paragraphs),
- (b) specifying whether or not the levy collection agent employed 50 or more full-time equivalent employees as at the return date, and
- (c) specifying the number of persons for which the levy collection agent acted as a levy collection agent as at the return date.

(2) The annual return must be given to the Authority –

- (a) on or before the last day of February of each year, and
- (b) in a form and manner specified by the Authority.

(3) Nothing in this regulation requires a levy collection agent that registers itself as a controller or processor on or after the 1st January and before the last day of February in any calendar year to give the Authority an annual return in that calendar year.]

NOTE

Regulation 5A was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 6, with effect from 1st January, 2021.

[Other controllers and processors to make returns in 2021.]

5B. (1) A person, other than a levy collection agent [or an exempt person] registered as a controller or processor [and so registered immediately] before the 1st January, 2021 must give the Authority a return in 2021 in accordance with paragraph (2) –

- (a) including the information specified in regulation 3(1)(a) to (e) (inclusive of both paragraphs), and
- (b) specifying whether or not the person employed 50 or more full-time equivalent employees as at the return date.

(2) The return must be given to the Authority –

- (a) on or before the last day of February 2021, and
- (b) in a form and manner specified by the Authority.]

NOTES

Regulation 5B was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 6, with effect from 1st January, 2021.

In regulation 5B, the words in the first and second pairs of square brackets in paragraph (1) were inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020, regulation 4, respectively paragraph (a) and paragraph (b), with effect from 1st January, 2021.

PART II

LEVIES

Registered controllers and processors to pay annual levies.

6. (1) Subject to paragraph (4), a person registered as a controller, processor, or both ("**a registered person**") must pay to the Authority in accordance with this regulation, in respect of each year for which the controller or processor concerned is registered[, the annual levy specified in column 3 of Schedule 1 in relation to the controller or processor described in column 1 of that Schedule.]

(2) A registered person must pay the annual levy [within the time specified for payment of that levy in column 4 of that Schedule.]

(3) ...

(4) ...

(5) No levy or penalty paid under this regulation is refundable under any circumstances.

(6) ...

NOTE

In regulation 6, first, the words in square brackets in paragraph (1) and, second, the words in square brackets in paragraph (2) were substituted and, third, paragraph (3), paragraph (4) and paragraph (6) were revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 7, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 1st January, 2021.³

[Levy collection agents to give administered entities a certificate of exemption.]

6A. (1) Upon paying an annual levy under regulation 6, a levy collection agent must give each administered entity (in respect of which the levy collection agent paid the administered entities levy as part of the annual levy) a certificate of exemption in a form specified by the Authority –

- (a) as soon as practicable, and
- (b) in any event within one month of paying the annual levy.

(2) A certificate of exemption is valid until midnight of the 31st March in the calendar year immediately following the year in which that annual levy was paid.]

NOTE

Regulation 6A was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 8, with effect from 1st January, 2021.

[Levy collection agents to keep records of administered entities.]

6B. (1) A levy collection agent registered as a controller or processor must keep records of the following in accordance with paragraph (2) –

- (a) the name and, in the case of a company, foundation or

limited liability partnership, the Registry number, of each administered entity as at each return date,

- (b) a copy of the certificate of exemption that the levy collection agent gave to the administered entity under regulation 6A, and
- (c) the date on which the levy collection agent sent the certificate of exemption to the administered entity.

(2) The levy collection agent must keep those records for a period of six years from the return date.]

NOTE

Regulation 6B was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 8, with effect from 1st January, 2021.

PART III
RECORD-KEEPING

Controllers to keep records of processing activities.

7. (1) A controller must maintain a written record of any processing carried out in the context of the controller.

(2) The record must include –

(a) the name and contact details of –

(i) the controller, and

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- (ii) where applicable, any joint controller, any controller's representative and any data protection officer,
- (b) the purposes of the processing,
- (c) a description of the categories of data subjects and categories of personal data,
- (d) a description of the categories of recipients to whom the personal data has been or will be disclosed, including recipients in any unauthorised jurisdiction,
- (e) where applicable, information as to transfers of personal data to recipients in an unauthorised jurisdiction, including –
 - (i) the identification of the unauthorised jurisdiction, and,
 - (ii) in the case of transfers authorised by section 59(1)(j) of the Law, a record of the assessment of circumstances and the safeguards provided for the protection of personal data for the purposes of subparagraph (iv) of that provision,
- (f) so far as practicable, the time limits envisaged for retention of the different categories of data, and
- (g) so far as practicable, a general description of the security measures taken in relation to the processing.

Processors to keep records of processing activities.

8. (1) A processor must maintain a written record of all categories of processing activities carried out by it on behalf of a controller.

(2) The record required under paragraph (1) must include –

(a) the name and contact details of –

(i) the processor, and

(ii) where applicable, any representative of the processor concerned, any other processor, and any data protection officer designated by the processor,

(b) the name and contact details of –

(i) the controller, and,

(ii) where applicable, any joint controller, any controller's representative, and any data protection officer designated by the controller,

(c) a description of the categories of processing carried out on behalf of each controller,

(d) where applicable, information as to transfers of personal data to an unauthorised jurisdiction, including

–

- (i) the identification of the unauthorised jurisdiction, and,
 - (ii) in the case of transfers authorised by section 59(1)(j) of the Law, a record of the assessment of circumstances and the safeguards provided for the protection of personal data for the purposes of subparagraph (iv) of that provision, and
- (g) so far as practicable, a general description of the security measures taken in relation to the processing.

Exemption for small-scale controller or processor in limited circumstances.

9. Neither regulation 7 nor 8 applies to a controller or processor employing fewer than 250 individuals in the business of the controller or processor, where the processing –

- (a) is occasional,
- (b) does not include special category data, and
- (c) is not high-risk processing.

Time for which records must be kept.

10. (1) This regulation applies where any provision of the Law requires a controller or processor to keep any records relating to –

- (a) a personal data breach,
- (b) a whole or partial restriction applied by the controller or

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processor on a duty to provide information to a data subject,

- (c) a transfer of personal data, or
- (d) any other kind of processing of personal data.

(2) The controller or processor must keep those records for a period of six years from –

- (a) in relation to a personal data breach, the day when the controller or processor first became aware of the breach,
- (b) in relation to a restriction applied by the controller or processor on a duty to provide information to a data subject, the day when the controller or processor ended the restriction,
- (c) in relation to a transfer of personal data, the day when the data was transferred, and
- (d) in relation to any other kind of processing of personal data, the day when that kind of processing was last carried out in relation to the personal data concerned.

(3) This regulation is subject to any specific provision of the Law to the contrary.

PART IV
AUTHORISED PROCESSING AND TRANSFERS

Special authorisation for processing of personal data.

11. (1) In respect of each row of the table in Schedule 2, this paragraph authorises the processing of the personal data in column 1 –

- (a) in the context of the person in column 2,
- (b) where necessary for the purpose in column 3,
- (c) subject to the conditions in column 4.

(2) The authorisation under paragraph (1) –

- (a) in respect of each row of that table, is for the purposes of section 7 of, and paragraph 17(a) of Schedule 2 to, the Data Protection (Bailiwick of Guernsey) Law, 2017, [...]
- (b) in respect of rows 13, [13A,] 14, 15 and 16 of that table, is also for the purposes of paragraph 7(a) of Schedule 2 to, the Law Enforcement Ordinance[, and]
- [(c) in respect of rows 13, 13A, 14, 15 and 16 of that table, is also for the purposes of section 6(5) (b) of the Law Enforcement Ordinance.]

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

NOTES

In regulation 11,

first, the word omitted in square brackets at the end of paragraph (2)(a) was revoked, second, the figures and letter in the first pair of square brackets in paragraph (2)(b) was inserted, third, the punctuation and word in the second pair of square brackets therein were substituted and, fourth, paragraph (2)(c) was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 7, respectively paragraph (a), paragraph (b)(i), paragraph (b)(ii) and paragraph (c), with effect from 25th May, 2019;

paragraph (3) was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020, regulation 2, with effect from 7th January, 2020.

[Special authorisation for processing certain personal data for purposes other than law enforcement.

11A. For the purposes of section 6(5) (b) of the Law Enforcement Ordinance, processing of personal data for any purpose other than a law enforcement purpose is authorised –

- (a) if the processing satisfies any condition in Schedule 2 to the Law Enforcement Ordinance (excluding the conditions in paragraphs 7(a) and 8 of that schedule), or
- (b) for the avoidance of doubt, where the processing is authorised in accordance with regulation 11(1) and (2)(c).]

NOTE

Regulation 11A was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 8, with effect from 25th May, 2019.

Special authorisation for transfers to unauthorised jurisdiction.

12. For the purposes of section 59(1)(k) of the Law, this paragraph authorises, in respect of the table in Schedule 3, the transfer to a person in an unauthorised jurisdiction of the personal data in column 1 –

- (a) by the person in column 2,
- (b) where the transfer is of a kind specified in column 3,
- (c) subject to the conditions in column 4.

PART V

EXEMPTIONS, EXCEPTIONS AND DISAPPLICATIONS

Amendments to Schedule 8 to the Law.

13. Schedule 8 to the Law is amended as set out in Schedule 4 to these Regulations.

Disapplication of section 16(2), (3) and (4) of the Law.

14. (1) Section 16(2), (3) and (4) of the Law is disappplied where a controller cannot comply with a request made by an individual under section 14 or 15 of that Law without disclosing, in respect of each row of the table in Schedule 5, any information of a kind specified in column 1 relating to another individual ("**the other individual**") who is –

- (a) identified or identifiable from that information, and
- (b) described in column 2.

(2) Despite paragraph (1), section 16(2), (3) and (4) of that Law is not disappplied in any case where the controller has reason to be concerned that disclosure of that information is likely to result in a real and substantial risk to a vital

interest of the other individual.

PART VI
TRANSITIONAL PROVISIONS FOR REGISTRATION

Continuation of existing register.

15. The Authority must revise the former register as necessary and maintain it as the register under the Law.

Notified controllers deemed to be temporarily registered.

16. (1) This regulation applies where –

(a) at any time within the period of twelve months before the commencement of the Law –

(i) the Commissioner made an entry in the former register kept under the former Law in pursuance of a notification made by a data controller, or

(ii) an entry in respect of a data controller is treated as having been made in the former register for the purposes of section 17 of the former Law, and

(b) the entry in respect of the data controller was still in force immediately before the commencement of the Law.

(2) The data controller in respect of which the entry in the former register was made, or treated as having been made, is deemed to be registered as a controller and (as the case may be) a processor under the Law.

(3) A deemed registration under paragraph (2) expires on the earlier of the following –

- (a) the expiry of a period of twelve months since the entry in the former register was last made or (as the case may be) treated as having been made, or
- (b) the Authority registering the person as a controller or (as the case may be) processor under the Law.

(4) In paragraph (1), "**data controller**" has the meaning given by section 1(1) of the former Law.

Transitional exemptions from registration.

17. (1) This paragraph exempts from the requirement to register as a controller or processor under the Law, in respect of each row of the table in Schedule 6, the person in column 1, in connection with any processing –

- (a) of the personal data in column 2,
- (b) for the purpose in column 3, and
- (c) subject to the conditions in column 4.

(2) Paragraph (1) –

- (a) does not apply in respect of high-risk processing, and
- (b) in any case, ceases to have effect on the [1st January, [2021]].

NOTES

In regulation 17,

the date in square brackets in paragraph (2)(b) was substituted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 9, with effect from 25th May, 2019;

the figures in square brackets within paragraph (2)(b) were substituted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2019, regulation 1, with effect from 1st January, 2020.

PART VII
GENERAL

Interpretation.

18. (1) In these Regulations, unless the context requires otherwise –

[...]

["**contact details**" means email address and telephone number,]

"the due date": see regulation 6(2),

"elected representative" –

(a) means –

(i) a member of the States of Deliberation of

Guernsey^c,

- (ii) a holder in Guernsey of the office of –
 - (A) Constable,
 - (B) Douzenier^d,
 - (C) Procureur of the Poor, or
 - (D) Overseer of the Poor^e,
- (iii) a member^f or the President of the States of Alderney,
- (iv) a member of the Chief Pleas of Sark^g, or
- (v) a holder in Sark of the office of –
 - (A) Constable,

^c As to membership of the States of Deliberation of Guernsey, see article 1 of the Reform (Guernsey) Law, 1948, as amended.

^d Election to the offices of Constable and Douzenier is governed by Part V of the Reform (Guernsey) Law, 1948, as amended.

^e Election to the offices of Procureur of the Poor and Overseer of the Poor is provided for under article XVII of the Public Assistance Law, 1937, as amended.

^f As to membership of the States of Alderney, see section 27 of the Government of Alderney Law, 2004, as amended.

^g As to membership of the Chief Pleas of Sark, see section 21(1) of the Reform (Sark) Law, 2008, as amended.

- (B) Vingtenier,
- (C) Assistant Constable,
- (D) Procureur of the Poor, or
- (E) Deputy Procureur of the Poor, and

(b) includes any person acting with the authority of an individual specified in paragraph (a),

"enactment" includes –

- (a) an Act of Parliament that extends to the Bailiwick, and
- (b) a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"the firm": see regulation 1(4),

"the former Commissioner" means the Data Protection Commissioner under the former Law,

"the former Law" means the Data Protection (Bailiwick of Guernsey) Law, 2001^h,

"the former register" means the register of data controllers kept

^h 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; No. XXIX of 2013; and No. IX of 2016.

under the former Law,

"high-risk processing" has the meaning given by section 44(8) of the Data Protection (Bailiwick of Guernsey) Law, 2017 and section 36(5) of the Law Enforcement Ordinance,

"joint controller" has meaning given by section 33(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017 and section 28(1) of the Law Enforcement Ordinance,

"the Law" –

- (a) means the Data Protection (Bailiwick of Guernsey) Law, 2017, and
- (b) includes any Ordinance or regulations made under that Law (including these Regulations),

"the Law Enforcement Ordinance" means the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018ⁱ,

"notification" means a notification to the former Commissioner in accordance with section 18 of the former Law,

"the other individual": see regulation 14(1),

"recipient", in relation to personal data, means any person to which the personal data is or will be disclosed,

ⁱ Ordinance No. * of 2018.

"the register" means the register of controllers and processors maintained by the Authority under Schedule 4 to the Law; **"registration"** means registration of a controller or processor in accordance with Schedule 4 to the Law, and **"registered"** has a corresponding meaning,

"register particulars" has the meaning given by regulation 4(2),

"a registered person": see regulation 6(1),

"school" has the meaning given by section 1(1) of the Education (Guernsey) Law, 1970^j,

"security measures", in relation to any controller or processor, means measures taken or to be taken for the purpose of complying with –

- (a) the data protection principle in section 6(2)(f) of the Data Protection (Bailiwick of Guernsey) Law, 2017 or section 10 of the Law Enforcement Ordinance, or
- (b) section 41 of the Data Protection (Bailiwick of Guernsey) Law, 2017 or section 33 or 34 of the Law Enforcement Ordinance, and

"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.

^j Ordres en Conseil Vol. XXII, p. 318; Vol. XXVI, p. 107; Vol. XXVII, p. 347; Vol. XXVIII, p. 181; Vol. XXX, p. 79; Vol. XXXI, p. 168; Vol. XXXII, p. 144; Order in Council No. XVII of 2009; Ordinance No. XXVIII of 2008. There are other amendments not relevant to this provision.

(2) The Interpretation (Guernsey) Law, 1948^k applies to the interpretation of these Regulations throughout the Bailiwick.

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

NOTES

In regulation 18,

the words omitted in square brackets were revoked by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 10, with effect from 25th May, 2019;

the definition of the expression "contact details" was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 9, with effect from 1st January, 2021.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

19. These Regulations may be cited as the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018.

Commencement.

20. These Regulations come into force on the 25th May, 2018.

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

REGISTRATION FEES AND ANNUAL LEVIES

Column 1: Controller or processor	Column 2: Registration fee	Column 3: Annual levy	Column 4: When annual levy must be paid
The Policy & Resources Committee of the States of Guernsey	£300, 000	£300, 000	On or after the 1 st January and no later than the last day of February, in 2021 and each subsequent calendar year
A Guernsey public entity other than the Policy & Resources Committee of the States of Guernsey	Nil	Nil	N/A
The Policy and Finance Committee of the States of Alderney	£2,000	£2,000	On or after the 1 st January and no later than the last day of February, in 2021 and each subsequent calendar year
An Alderney public entity other than the Policy and Finance Committee of the States of Alderney	Nil	Nil	N/A
The Policy and Performance Committee of the Chief Pleas of Sark	£2,000	£2,000	On or after the 1 st January and no later than the last day of February, in 2021

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			and each subsequent calendar year
A Sark public entity other than the Policy & Finance Committee of the Chief Pleas of Sark	Nil	Nil	N/A
An elected representative, in respect of processing for the purposes of carrying out any function or activity as an elected representative	Nil	Nil	N/A
A body or association that is a non profit organisation	Nil	Nil	N/A
A levy collection agent	The aggregate of (a) and (b): (a) £2, 000 for a large organisation and £50 otherwise, and (b) the administered entities charge	The aggregate of(a) and (b): (a) £2, 000 for a large organisation and £50 otherwise, and (b) the administered entities charge	On or after the 1 st January and no later than the last day of February, in 2021 and each subsequent return year
[Any exempt person	Nil	Nil	N/A]
Any other person	£2, 000 for a large organisation and £50 otherwise	£2, 000 for a large organisation and £50 otherwise	On or after the 1 st January and no later than the last day of February, in 2021 and each subsequent

			return year
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In this Schedule –

the "**administered entities charge**", in relation to the registration fee or annual levy payable by any person that is a collection agent, is £50 in respect of each administered entity for which the person was the levy collection agent as at midnight of the 31st December last preceding the year in which the registration fee or (as the case may be) annual levy is payable,

"**elected representative**" is deemed to include any person standing for election as an elected representative, and

whether or not a person is a large organisation is to be assessed and calculated

–

- (a) in the case of a registration fee, at the time the person applies for registration, and
- (b) in the case of an annual levy, as at midnight of the 31st December last preceding the year in which the annual levy is payable.]

NOTES

Schedule 1 was substituted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 10, Schedule, with effect from 1st January, 2021.

In Schedule 1, the entry in the table for "Any exempt person" was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020, regulation 5, with effect from 1st January, 2021.

ALDERNEY PUBLIC ENTITIES

Each of the following is an Alderney public entity –

- (a) the States of Alderney,
- (b) any authority, board, committee or council of the States of Alderney (however named) constituted by or under a Resolution, a Law or an Ordinance approved by the States of Alderney,
- (c) any holder of a public office remunerated out of funds provided by the States of Alderney or a body described in paragraph (b),
- (d) any body of persons, whether incorporated or not –
 - (i) constituted under any enactment or customary law in force in Alderney, or
 - (ii) funded wholly or mainly out of funds provided by the States of Alderney or a body described in paragraph (b),
- (e) a court or tribunal of Alderney duly constituted under any enactment or customary law in force in Alderney,
- (f) any person hearing or determining an appeal, or conducting a public inquiry, under any enactment or customary law in force in Alderney,
- (g) an officer of police, within the meaning given by Part I of the Schedule to the Interpretation and Standard Provisions (Bailiwick of Guernsey)

Law, 2016,

- (h) the Alderney Fire and Ambulance Service (however named), and
- (i) any officers of the States of Guernsey (or States of Alderney) carrying out or otherwise providing services on or in respect of Alderney that are provided by the States of Guernsey.]

NOTE

Schedule 1A was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 10, Schedule, with effect from 1st January, 2021.

GUERNSEY PUBLIC ENTITIES

Each of the following is a Guernsey public entity –

- (a) the States of Guernsey or States of Deliberation,
- (b) any authority, board, committee or council of the States of Guernsey (however named) constituted by or under a Resolution, a Law or an Ordinance approved by the States of Deliberation,
- (c) any holder of a public office remunerated out of funds provided by the States of Guernsey or a body described in paragraph (b),
- (d) any body of persons, whether incorporated or not –
 - (i) constituted under any enactment or customary law in force in Guernsey, or
 - (ii) funded wholly or mainly out of funds provided by the Chief Pleas or a body described in paragraph (b),
- (e) a court or tribunal of Guernsey or the Bailiwick of Guernsey duly constituted under any enactment or customary law in force in Guernsey,
- (f) any person hearing or determining an appeal, or conducting a public inquiry, under any enactment or customary law in force in Guernsey,
- (g) the salaried police force of the Island of Guernsey, and

(h) a parish Douzaine of the Island of Guernsey.]

NOTE

Schedule 1B was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 10, Schedule, with effect from 1st January, 2021.

SARK PUBLIC ENTITIES

Each of the following is a Sark public entity –

- (a) the Chief Pleas,
- (b) any authority, board, committee or council of the Chief Pleas (however named) constituted by or under a Resolution, a Law or an Ordinance approved by the Chief Pleas,
- (c) any holder of a public office remunerated out of funds provided by the Chief Pleas or a body described in paragraph (b),
- (d) any body of persons, whether incorporated or not –
 - (i) constituted under any enactment or customary law in force in Sark, or
 - (ii) funded wholly or mainly out of funds provided by the Chief Pleas or a body described in paragraph (b),
- (e) a court or tribunal of Sark duly constituted under any enactment or customary law in force in Sark,
- (f) any person hearing or determining an appeal, or conducting a public inquiry, under any enactment or customary law in force in Sark,
- (g) an officer of police, within the meaning given by Part I of the Schedule to the Interpretation and Standard Provisions (Bailiwick of Guernsey)

Law, 2016,

- (h) the Douzaine of Sark, and
- (i) the Sark doctor, within the meaning given by section 47(1) of the Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017.]

NOTE

Schedule 1C was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 10, Schedule, with effect from 1st January, 2021.

CALCULATION OF NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES

1. For the purposes of calculating the number of full-time equivalent employees of any person ("**the employer**") –

"employee" means an individual who has entered into or who works under (or, where the employment has ceased, who worked under) a contract of service for the employer, whether express or implied and whether written or oral, and

"full time employee" means –

- (a) an employee who works or who under his contract of service is required to work for the employer 27 hours or more per week, or
 - (b) a number of employees who do not individually fall within subparagraph (a) but who collectively work or who collectively under their contracts of service are required to work for the employer, 27 hours or more per week in the aggregate.
2. An individual who works or who under his contract of service is required to work for an employer is to be regarded as an employee of the employer whether the contract of service the individual has entered into or works under was made with the employer or, where the employer is a company, with an associated company of the employer.

3. For the avoidance of doubt –

- (a) the hours worked by an employee includes any hours worked wholly or mainly outside the Bailiwick of Guernsey,
- (b) a director of the employer in his capacity as director is not to be regarded as a full time employee of that employer unless the director is, in that capacity, an employee within the meaning of paragraph 1 of this Schedule.]

NOTE

Schedule 1D was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, regulation 10, Schedule, with effect from 1st January, 2021.

SCHEDULE 2

[Regulation 11]

AUTHORISED PROCESSING OF PERSONAL DATA

	Column 1	Column 2	Column 3	Column 4
Row	Personal data	Controller	Purposes	Conditions
1.	Personal data relating to the name and address of the registered keeper of an abandoned motor vehicle	The Environment Committee	Enabling or facilitating the owner or occupier of the land on which the vehicle is abandoned to take action to enable the removal or disposal of the vehicle	The following conditions must be satisfied – (a) the processing is by way of disclosure by the Environment Committee, (b) the registered keeper is physically or legally incapable of giving consent to the disclosure, or the Environment Committee cannot reasonably be expected to obtain the consent of the registered keeper, and (c) the disclosure is made on terms and conditions determined by the Environment Committee after consulting the Authority.
2.	Personal data concerning any employee, debtor or creditor of a STSC-related body, excluding any special category data	STSC or a STSC-related body	Enabling or facilitating STSC to carry out a relevant function of the STSC related body	–
[2A.	Any personal data	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	To assist or facilitate the Scrutiny Committee to carry out its scrutiny function, in response to the request for information.	Personal data must not be disclosed to the Scrutiny Committee unless – (a) that committee undertakes not to process any of that personal data other

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		<p>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>		<p>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>
3.	Special category data	<p>Any person acting for or on behalf of –</p> <p>(a) Ofsted, or</p> <p>(b) a person, Service or institution in the Bailiwick being inspected by or on behalf of Ofsted</p>	<p>Enabling or facilitating an inspection relating to any person, service or institution in the Bailiwick carried out by or on behalf of Ofsted further to an approved arrangement</p>	<p>The approved arrangement must contain safeguards in relation to any personal data processed for the purpose of the inspection.</p>
4.	Special category data	<p>Any person providing</p>	<p>Providing or</p>	<p>The processing –</p>

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		confidential counselling, advice, support or other similar service provided confidentially	delivering services of the kind specified in column 2	<p>(a) needs to be carried out without the data subject's consent –</p> <p>(i) because the data subject is physically or legally incapable of giving consent,</p> <p>(ii) because the controller cannot reasonably be expected to obtain the consent of the data subject, or</p> <p>(iii) in order not to prejudice the purpose in column 3, and</p> <p>(b) is in the public interest.</p>
[5.	Health data or criminal data	Any person carrying on insurance business, or acting for or on behalf of such a person	Enabling or facilitating the person to carry on insurance business	<p>The processing –</p> <p>(a) is necessary for a purpose relating to an objective that is in the public interest, and</p> <p>(b) where condition A applies, satisfies condition B.</p> <p>Condition A applies where-</p> <p>(a) the processing is not carried out for the purposes of measures or decisions with respect to the data subject, and</p> <p>(b) the data subject does not have and is not expected to acquire –</p> <p>(i) rights against, or obligations in relation to, an insured person under an insurance contract entered into by or on behalf of the controller, or</p> <p>(ii) any other rights or obligations in connection with such a contract.</p>

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				<p>Condition B is satisfied if the controller –</p> <ul style="list-style-type: none"> (a) cannot reasonably be expected to obtain the consent of the data subject, (b) the controller is not aware of the data subject withholding consent.]
6.	Health data relating to a data subject who is the parent, grandparent, great grandparent or sibling of a member of a pension scheme.	Any person making determinations in connection with eligibility for, and benefits payable under, a pension scheme	Enabling or facilitating the person to make determinations of the kind specified in column 2	<p>The processing –</p> <ul style="list-style-type: none"> (a) needs to be carried out without the data subject's consent – <ul style="list-style-type: none"> (i) because the data subject is physically or legally incapable of giving consent, or (ii) because the controller cannot reasonably be expected to obtain the consent of the data subject, and (b) does not support measures or decisions affecting the significant interests of the data subject.
7.	Criminal data	Any person	<p>A purpose in connection with any of the following –</p> <ul style="list-style-type: none"> (a) the recruitment of an individual as an employee, (b) the continued employment of an individual, (c) any contract for the provision of services to the controller by another person, or (d) the provision (for payment or not) of goods, facilities or services to the public or any section of the 	<p>The processing –</p> <ul style="list-style-type: none"> (a) is required or authorised by law, or (b) in the particular circumstances, is justified as being in the public interest.

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			public	
8.	Special category data	Any person	Exercising any right or power, or performing or complying with any duty, conferred or imposed by law on the controller in connection with employment	–
9.	Special category data	An elected representative	Carrying out any function as an elected representative	The processing – (a) is carried out pursuant to a request made by the data subject to the elected representative to take action on behalf of the data subject or any other individual, and (b) is necessary for the purposes of, or in connection with, the action reasonably taken by the elected representative pursuant to that request.
10.	Special category data	An elected representative	Carrying out any function as an elected representative	The processing – (a) is carried out pursuant to a request made by an individual other than the data subject to the elected representative to take action on behalf of the data subject or any other individual, (b) is necessary for the purposes of, or in connection with, the action reasonably taken by the elected representative pursuant to that request, and (c) needs to be carried out without the data subject's consent –(i) because the data subject is physically or

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				legally incapable of giving consent, (ii) because the controller cannot reasonably be expected to obtain the consent of the data subject, (iii) in order to protect or safeguard the significant interests of another individual, in any case where the data subject has unreasonably withheld consent, or (iv) in order not to prejudice the action taken by the elected representative pursuant to that request.
11.	Special category data	Any person	Responding to a communication to the controller made by an elected representative pursuant to a request made by the data subject	The processing – (a) consists of a disclosure of special category data to the elected representative, and (b) the special category data is relevant to the communication specified in column 3
12.	Special category data	Any person	Responding to a communication to the controller made by an elected representative pursuant to a request made by an individual other than the data subject	The processing – (a) consists of a disclosure of special category data to the elected representative, (b) the special category data is relevant to the communication specified in column 3, and (c) needs to be carried out without the data subject's consent – (i) because the data subject is physically or legally incapable of giving consent,

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				(ii) because the controller cannot reasonably be expected to obtain the consent of the data subject, (iii) in order to protect or safeguard the significant interests of another individual, in any case where the data subject has unreasonably withheld consent, or (iv) in order not to prejudice any action taken by the elected representative pursuant to that request.
13.	Special category data	Any person	The prevention, detection or investigation of any unlawful act or omission	The processing – (a) needs to be carried out without the data subject's consent in order not to prejudice the purpose in column 3, and (b) is in the public interest.
[13A.]	Any personal data	Any controller	Publication of a judgment or other decision of a court or tribunal	The processing – (a) consists of the publication of such a judgment or decision, or (b) enables or facilitates the publication of such a judgment or decision.]
14.	[Any personal data]	Any person discharging a protective function	Properly discharging the protective function	The processing – (a) needs to be carried out without the data subject's consent in order not to prejudice the purpose in column 3, and (b) is in the public interest.
15.	[Any personal data]	A police officer	Exercising or performing any function conferred or imposed on the police	–

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			officer by any rule of law or customary law	
16.	[Any personal data]	Public authority	Identifying or assessing the risk to the Bailiwick of money laundering, terrorist financing, breaches of international sanctions or other forms of financial crime.	The processing needs to be carried out in order to maintain the reputation and standing of the Bailiwick.

In this Schedule –

"abandoned motor vehicle" means a motor vehicle which appears to have been abandoned on privately owned land without the permission of the owner or occupier of that land,

"approved arrangement" means a written arrangement entered into between Ofsted and any public committee,

"criminal data" means personal data relating to –

- (a) the commission or alleged commission of a criminal offence by an individual, or
- (b) proceedings for a criminal offence committed or alleged to have been committed by an individual, the disposal of such proceedings or the sentence of a court in such proceedings,

"the Environment Committee" means the States of Guernsey Committee for Environment & Infrastructure,

"in the context of employment" has the meaning given by section 105(3) of the Law,

"insurance business" has the meaning given by Schedule 5 to the Insurance Business (Bailiwick of Guernsey) Law, 2002^l,

[**"insurance contract"** means a contract of general insurance or long-term insurance,]

"insured person" includes an individual who is seeking to become an insured person,

"member of a pension scheme" includes an individual who is seeking to become a member a pension scheme,

"occupier" means any person occupying land under a lease for a term of at least 12 months,

"Ofsted" means the Office for Standards in Education, Children's Services and Skills of the United Kingdom,

"pension scheme" has the meaning given by section 2(1)(e) of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000^m,

^l Order in Council No. XXI of 2002; amended by No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; Nos. XII and LI of 2008; Nos. VIII and XXXI of 2010; No. XXXVI of 2011; No. LV of 2014; No. XII of 2015; No. XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; G.S.I. No. 33 of 2004; G.S.I. No. 4 of 2008; G.S.I. Nos. 15 and 83 of 2010; G.S.I. No. 68 of 2014; G.S.I. No. 121 of 2015.

^m Order in Council No. I of 2001; amended by No. I of 2000; No. XIV of 2003; No. XVI of 2007; Nos. VIII and XXV of 2008; Nos. XIII and XIX of 2010; No. I of 2013; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. VII of 2009; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney

"protective function" has the meaning given by paragraph 15 of Schedule 8 to the Law,

"registered keeper", in relation to a motor vehicle, means the person in respect of whom the motor vehicle is for the time being registered under the Motor Taxation and Licensing (Guernsey) Law, 1987ⁿ,

"relevant function" means a function that the STSC has agreed with any STSC-related body, or any person acting on behalf of such a body, that the STSC will carry out on behalf of the STSC-related body,

"STSC" –

- (a) means the division or part of the States of Guernsey Policy & Resources Committee known as the Shared Transactional Service Centre, which is responsible for administering and implementing policies approved by the States of Deliberation for the delivery of shared services, and
- (b) includes any successor of that division or part to which those functions are delegated or assigned, and

"STSC-related body" means –

Ordinance No. III of 2017; Sark Ordinance No. X of 2017; G.S.I. No. 3 of 2008; G.S.I. No. 83 of 2010; G.S.I. No. 4 of 2013; G.S.I. Nos. 50, 56 and 72 of 2017.

ⁿ Ordres en Conseil Vol. XXX, p. 341; amended by Vol. XXXI, p. 278; Vol. XXXIII, p. 127, Vol. XXXVI, p. 256; Vol. XL, p. 298; Order in Council No. XIX of 2007; Recueil d'Ordonnances Tome XXVI, p. 90; and Ordinance No. XXXIII of 2003; Nos. IX and XIII of 2016.

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- (a) a public committee of the States of Guernsey or States of Alderney, or
- (b) any other person to which the STSC delivers services.

NOTE

In Schedule 2,

row 2A of the Table was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2020, regulation 3, with effect from 7th January, 2020;

first, the word, figures and parentheses in square brackets above the heading were substituted, second, row 5 of the Table was substituted, third, row 13A thereof was inserted, fourth, the words "Any personal data" in square brackets, wherever occurring in Rows 14, 15 and 16 therein, were substituted and, fifth, the definition of the expression "insurance contract" was inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, respectively regulation 11(a), regulation 11(b), Schedule, Part 1, regulation 11(c), Schedule, Part II, regulation 11(d) and regulation 11(e), with effect from 25th May, 2019.

The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 has since been repealed by the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.

SCHEDULE 3

Regulation 12

AUTHORISED TRANSFERS TO PERSON IN UNAUTHORISED JURISDICTION

Column 1	Column 2	Column 3	Column 4
Personal data	Transferred by	Kind of transfer	Conditions
Any kind	The Commission or the Stock Exchange	Disclosures required or authorised by or under any enactment	The transfer must be made on the condition that the recipient does not transfer the personal data to any third party except – (a) with the consent of the transferor (the Commission or, as the case may be, the Stock Exchange), (b) with the consent of the data subject, or (c) in order to comply with the order of a competent court or tribunal.

In this Schedule –

"the Commission" has the meaning given by section 24(1) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^o and

^o Ordres en Conseil Vol. XXX, p. 243; as amended by Vol. XXXI, p. 278; Vol. XXXIII, p. 471; Vol. XXXV (1), p. 271; XXXVII, p. 24; Vol. XLII (2), pp. 644 and 766; Vol. XLIII (1), p. 49; Vol. XLIII (2), p. 574; No's. XIX, XXIII and XXIV of 2008; No. XIX of 2010; No. III of 2013; No. I of 2015; No. XIII of 2017; Ordinance No. XXXIII of 2003; No. XXXIV of 2005; Nos. XII, XX and XXXIX of 2015; Nos. II, IX and XXII of 2016; Nos. XXVII and XIX of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; G.S.I. No. 29 of 2009; and G.S.I. No. 49 of 2017.

includes –

- (a) a member, officer or servant of the Commission acting in the exercise or performance of his or her functions on behalf of –
 - (i) the Commission, or
 - (ii) a public committee of the States of Guernsey, and
- (b) any other person carrying out any functions on behalf of the Commission, 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 exercise or performance of his or her functions on behalf of the Stock Exchange, and
- (b) any other person carrying out any functions of behalf of the Stock Exchange.

SCHEDULE 4

Regulation 13

AMENDMENTS TO SCHEDULE 8 TO THE LAW

1. Immediately after paragraph 2 of that Schedule, insert the following paragraphs –

"2A. Crown appointments.

Personal data is exempt from a provision of Part III if processed solely for the purpose of assessing any person's suitability for any of the following offices –

- (a) Lieutenant Governor,
- (b) Dean of Guernsey,
- (c) Her Majesty's Procureur,
- (d) Her Majesty's Comptroller, or
- (e) Her Majesty's Receiver General.

2B. Disclosure to relevant bodies to protect individuals from serious harm.

- (1) The disclosure of personal data to a relevant body is exempt from a provision of Part III that prohibits or restricts such a disclosure, to the extent that the disclosure is necessary for the purpose of protecting the data subject or any other individual from serious harm.
- (2) In subparagraph (1), "**relevant body**" means a public authority or any other body, association or agency that has as an object or function, or as any part of its objects or functions, the protection of individuals from serious harm.

2C. Disclosure required by law, etc.

The disclosure of personal data to any person is exempt from a provision of Part III that prohibits or restricts such a disclosure, to the extent that the disclosure is necessary –

- (a) to comply with a duty imposed –
 - (i) by or under any enactment,
 - (ii) by any rule of law, or

- (iii) by the order of a court or tribunal, or
 - (b) for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
 - (c) for the purpose of obtaining legal advice, or
 - (d) otherwise for the purposes of establishing, exercising or defending legal rights."
2. In paragraph 12, for subparagraph (1), substitute –
- "(1) Public information is exempt from –
- (a) sections 12 and 13, including any designated provision corresponding to a right or duty in section 12 or 13, and
 - (b) any other designated provision, to the extent that the application of the provision to the information would be likely to prejudice the purpose of requiring that information to be published."
3. For paragraphs 14 and 15 of that Schedule, substitute the following paragraphs –
- "14. Tax and crime information.**
- (1) The exemption in each of subparagraphs (2) and (3) applies to personal data processed for –
 - (a) a law enforcement purpose, or
 - (b) the assessment or collection within or outside the Bailiwick of any tax, duty, or other imposition of a similar nature, including any interest or penalty required to be paid as a result of late payment or non-payment of such a tax, duty or other imposition.
 - (2) Personal data is exempt from a designated provision (other than the lawfulness principle) to the extent that the application of the provision to the personal data would be likely to prejudice a purpose specified in subparagraph (1)(a) or (b).
 - (3) Personal data that consists of a classification applied to the data subject as part

of a system of risk assessment which is operated by a public authority for a purpose specified in subparagraph (1)(a) or (b) is exempt from a designated provision (other than the lawfulness principle) to the extent that the application of the provision to that personal data would be likely to prejudice the operation of the system of risk assessment.

14A. Prejudice to international obligations, etc.

Personal data is exempt from a designated provision (other than the lawfulness principle) to the extent that the application of the provision to the personal data would be likely to –

- (a) breach an international obligation of the Bailiwick, or
- (b) prejudice the ability of the Bailiwick to meet its international obligations.

15. Protective functions.

(1) This paragraph applies to personal data processed in the discharge of a protective function that –

- (a) is conferred or imposed by an enactment on any person,
- (b) is a function of the Crown, a Law Officer of the Crown, the States or a public committee, or
- (c) is of a public nature and is exercised in the public interest.

(2) Personal data is exempt from a designated provision to the extent that the application of the provision to the personal data would be likely to prejudice the proper discharge of the protective function.

(3) In this paragraph, "**protective function**" means –

- (a) the protection of members of the public against –
 - (i) financial loss due to dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons concerned in the provision of banking, insurance, investment, fiduciary, trustee services or other financial services or in the establishment or management of any body

- corporate, limited partnership with legal personality or foundation,
- (ii) financial loss due to the conduct of a person that is bankrupt or otherwise insolvent,
 - (iii) dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons authorised to carry on any profession or other activity,
 - (iv) maladministration by any public authority,
 - (v) failure in the services provided by any public authority, or
 - (vi) a failure of a public authority to provide a service which it is a function of the public authority to provide,
- (b) the protection of non-profit organisations or charities against misconduct or mismanagement (whether by trustees, directors or other persons) in their administration,
- (c) the protection of the property of non-profit organisations or charities from loss or misapplication,
- (d) the recovery of the property of non-profit organisations or charities,
- (e) the securing of the health, safety and welfare of persons at work,
- (f) the protection of persons other than those at work against risk to health or safety arising out of or in connection with the action of persons at work, or
- (g) the protection of the reputation and standing of the Bailiwick.
- (4) Any power or duty conferred or imposed on a person by a criminal proceeds enactment is deemed to be a protective function within the meaning of subparagraph (1)."
5. In paragraph 16(2) of that Schedule, in the definition of "administrative offence", immediately after "any offence,", insert "breach or other transgression".
6. Immediately after paragraph 16 of that Schedule, insert the following part and

paragraphs –

"Part IIA

Other exemptions and exceptions in relation to designated provisions

16A. Disclosures prohibited or restricted by enactments.

- (1) Personal data the disclosure of which is prohibited or restricted by an enactment is exempt from a designated provision.
- (2) Without limiting the generality of subparagraph (1), examples of such enactments include –
 - (a) in relation to Guernsey, sections 17, 20A and 20B of the Adoption (Guernsey) Law, 1960, and
 - (b) in relation to Alderney, sections 17, 20A and 20B of the Adoption (Guernsey) Law, 1960, as extended to Alderney by the Alderney (Application of Legislation) (Adoption) Ordinance, 1974.

16B. Trusts exemption.

Personal data in respect of a trust is exempt from a designated provision (other than section 24 of this Law) to the extent that –

- (a) in the case of a trust the proper law of which is the law of Guernsey, the personal data consists of information the withholding of which by the relevant controller is authorised by section 38 of the Trusts (Guernsey) Law, 2007 or the disclosure of which by the relevant controller would be contrary to a prohibition or restriction under any rule of law, whether statutory or customary, of Guernsey,
- (b) in the case of a trust the proper law of which is the law of Alderney or Sark, the personal data consists of information the disclosure of which by the relevant controller would be contrary to a prohibition or restriction under any rule of law, whether statutory or customary, of Alderney or (as the case may be) Sark, or
- (c) in the case of a trust the proper law of which is the law of a country

outside the Bailiwick, the personal data consists of information the withholding of which by the relevant controller is authorised by or under the law of that country or the disclosure of which by the relevant controller would be contrary to a prohibition or restriction under the law of that country.

16C. Court-directed exemptions.

- (1) Personal data withheld by a court or tribunal is exempt from a designated provision.
- (2) Personal data is withheld by a court or tribunal if –
 - (a) it is processed by a court or tribunal,
 - (b) it is supplied in a report or other evidence given to the court or tribunal in the course of any legal proceedings by or on behalf of –
 - (i) a probation officer,
 - (ii) a health professional,
 - (iii) an educational establishment,
 - (iv) a public committee, or
 - (v) any other person or body, and
 - (c) the court or tribunal directs that the personal data should be withheld from the data subject on the ground that it appears to be –
 - (i) impracticable to disclose the report or other evidence to the data subject having regard to the age and understanding of the data subject, or
 - (ii) undesirable to do so having regard to potential serious harm which might be suffered by the data subject as a result of such disclosure.

16D. Serious harm to data subjects or other individuals.

- (1) Any educational data, health data or social assistance data is exempt from a designated provision to the extent that the application of the provision to the data would be likely to cause serious harm to the data subject or any other

individual.

- (2) A non-health controller must not give a person any information (whether or not in response to a request), or take any action, in respect of any health data in accordance with a designated provision, unless the controller has first consulted the appropriate health professional on whether or not the exemption in subparagraph (1) applies in respect of the health data.
- (3) Subparagraph (2) does not apply to the extent that the non-health controller is satisfied that –
 - (a) the health data has previously been seen by, or is already within the knowledge of, the data subject, or
 - (b) within the period of six months before the controller gives the person the information, or takes the action, the appropriate health professional has given the controller an opinion to the effect that the exemption in subparagraph (1) applies or does not apply in respect of the health data.
- (4) In subparagraphs (2) and (3) –
"appropriate health professional" means –
 - (a) the health professional who is currently or was most recently responsible for the clinical care of the data subject in connection with the matters to which the health data relates,
 - (b) where there is more than one such health professional, the health professional who is the most suitable to advise on the matters to which the health data relates, or
 - (c) where –
 - (i) there is no health professional available falling within item (a) or (b), or
 - (ii) the controller is the States of Guernsey Committee for Employment and Social Security and the health data is processed in connection with the exercise of the functions conferred on the committee by or under the Social Insurance (Guernsey) Law, 1978, the Health Service (Benefit)

(Guernsey) Law, 1990 or any other of its functions in relation to social or health protection,
a health professional who has the necessary experience and qualifications to advise on the matters to which the health data relates,
and

"non-health controller" means any controller who is not a health professional.

16E. Requests by persons with parental responsibility or court-appointed administrators.

- (1) This paragraph applies where a person falling within subparagraph (2) –
 - (a) is authorised by or under any enactment or rule of law to make a request under a provision of Part III on behalf of a data subject, and
 - (b) has made such a request.
- (2) A person falls within this subparagraph if –
 - (a) the data subject is a child, and that person has parental responsibility for that data subject, or
 - (b) the data subject is incapable of managing the data subject's own affairs, and that person has been appointed by a court to manage those affairs (for example, as a curateur).
- (3) Personal data relating to whether the data subject is or has been the subject of or may be at risk of child abuse is exempt from a designated provision to the extent that the application of the provision to the personal data would not be in the best interests of the data subject.
- (4) Health data or social assistance data relating to the data subject is exempt from a designated provision to the extent that the application of the provision to the health data would disclose information –
 - (a) provided by the data subject in the expectation that it would not be disclosed to the person making the request,
 - (b) obtained as a result of any examination or investigation to which the data subject consented in the expectation that the information would

not be so disclosed, or

- (c) which the data subject has expressly indicated should not be so disclosed.
- (5) Neither subparagraph (4)(a) nor (4)(b) applies where the data subject has expressly indicated that the data subject no longer has the expectation mentioned in those subparagraphs.
- (6) In subparagraph (3), "**child abuse**" includes –
 - (a) physical injury (other than accidental injury) to a child,
 - (b) physical or emotional neglect of a child,
 - (c) ill-treatment of a child, or
 - (d) sexual abuse of a child."

- 7. In paragraph 20 of that Schedule, insert in the appropriate alphabetical order, the following definitions –

""**educational data**"" means any personal data which –

- (a) is processed by or on behalf of the proprietor of, or a teacher at, a school,
- (b) relates to any person who is or has been a pupil at the school, and
- (c) originates from or is supplied by or on behalf of –
 - (i) a teacher or other employee at the school,
 - (ii) an individual engaged by the proprietor of the school or working at a school under a contract for the provision of educational services,
 - (iii) the pupil to whom the data relates, or
 - (iv) a parent of that pupil,"

""**the lawfulness principle**"" means the principle in section 6(2)(a) that personal data must be processed lawfully,"

""**proprietor**"" in relation to a school in the Bailiwick, means the person or body of persons responsible for the management of the school,"

""**school**"" has the meaning given by section 1(1) of the Education (Guernsey)

Law, 1970,"

""serious harm", in relation to any individual –

- (a) means serious harm to the physical or mental health or condition of the individual, and
- (b) includes psychological or bodily injury," and

""social assistance data" means personal data –

- (a) processed by the States of Guernsey Committee for Employment & Social Security or any other person in connection with the allocation of housing or other residential accommodation,
- (b) processed by the States of Guernsey Committee for Employment & Social Security in connection with the payment of supplementary benefit under the Supplementary Benefit (Guernsey) Law, 1971, or
- (c) processed by the States of Guernsey Committee for Health & Social Care in connection with the carrying out of its functions under the States Children Board and Public Assistance (Amendment) (Guernsey) Law, 1970."

SCHEDULE 5

Regulation 14(1)

DISAPPLICATION OF SECTION 16(2), (3) AND (4) OF THE LAW

	Column 1	Column 2
Row	Personal data disclosed	The other individual
1.	Educational data	Any individual who, at the time the educational data was compiled – (a) was a teacher or other employee at the school, (b) was engaged by the proprietor of the school or working at the school under a contract for the provision of educational services, or (c) was employed by the States in pursuance of functions relating to education.
2.	Health data	Any individual who, at the time the health data was compiled, was a health professional who – (a) compiled or contributed to the compilation of the health data, or (b) was involved in the care of the data subject in his or her capacity as a health professional.
3.	Social assistance data	Any individual who, at the time the social assistance data was compiled, was employed by the States in connection with functions in relation to that data.

In this Schedule –

"educational data", **"school"**, and **"social assistance data"** have the respective meanings given by paragraph 20 of Schedule 8 to the Law, and

"health data" and **"health professional"** have the respective meanings given by section 111(1) of the Law.

SCHEDULE 6 [Regulations 2(2)(c), 6(4)(c)

and 17(1)]

TRANSITIONAL EXEMPTIONS FROM REGISTRATION[, REGISTRATION
FEE AND ANNUAL LEVY]

	Column 1	Column 2	Column 3	Column 4
No.	Person exempt	Personal data	Purposes	Conditions
1.	Any processor	Any	Any	The processor is not a controller in respect of any processing, whether or not carried out by that processor
2.	Any controller	Any kind	Maintenance of a public register	The sole purpose of the processing is for the purpose in column 3
3.	Any controller	The name, address, other personal identifiers, qualifications, work experience, pay, or information as to any other matter the processing of which is necessary for the purpose in column 3, relating to a data subject who is – (a) a past, existing or prospective member of staff of the controller, or (b) any other individual, where the processing of that personal data is necessary for the purpose in column 3	Appointments or removals, pay, discipline, superannuation, work management or other personnel matters in relation to the staff of the controller	The Exemption Condition*
4.	Any controller	The name, address, other personal identifiers, or information as to any other matter the processing of which is necessary for the purpose in column 3, relating to a data subject who is – (a) a past, existing or prospective customer or supplier of the controller, or	Advertising or marketing the controller's business, activity, goods or services and promoting public relations in connection with that business or activity, or those goods or services	The Exemption Condition*

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		(b) any other individual, where the processing of that personal data is necessary for the purpose in column 3		
5.	Any controller other than a credit reference agency	<p>The name, address, other personal identifiers, financial standing or information as to any other matter the processing of which is necessary for the purpose in column 3, relating to a data subject who is –</p> <p>(a) a past, existing or prospective customer or supplier of the controller, or</p> <p>(b) any other individual, where the processing of that personal data is necessary for the purpose in column 3.</p> <p>But personal data obtained from a credit reference agency is excluded from this exemption.</p>	Keeping accounts relating to any business or other activity carried on by the controller, or deciding whether to accept any person as a customer or supplier, or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by or to the controller in respect of those transactions, or for the purpose of making financial or management forecasts to assist the controller in the conduct of any such business or activity.	The Exemption Condition*
6.	A body or association that is a non profit organisation	<p>The name, address, other personal identifiers, information as to eligibility for membership of the body or association, or other information as to any other matter the processing of which is necessary for the purpose in column 3, relating to a data subject who –</p> <p>(a) is a past, existing or prospective member of the body or association,</p> <p>(b) has regular contact with the body or association in connection with the purpose in column 3, or</p> <p>(c) is any other individual, where the processing of that personal data is necessary for the purpose</p>	Establishing or maintaining membership of or support for the body or association, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it	The Exemption Condition*

		in column 3.		
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* **"The Exemption Condition"**, in relation to any exemption in the table above, is that the processing –

- (a) does not involve disclosure of the personal data to a third party other than –
 - (i) with the consent of the data subject, or
 - (ii) where it is necessary to make the disclosure for the purpose in column 3 of the exemption, and
- (b) does not involve keeping the personal data after the relationship between the controller and the data subject ends, unless and for so long as it is necessary to do so for the purpose in column 3 of the exemption.

NOTE

In Schedule 6, first, the word, figures and parentheses in square brackets above the heading were substituted and, second, the words in square brackets in the heading were inserted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, respectively regulation 12(a) and regulation 12(b), with effect from 25th May, 2019.

EXPLANATORY NOTE

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

These Regulations prescribe a range of matters for the purposes of the Data Protection (Bailiwick of Guernsey) Law, 2017 ("**the Law**") and the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018 ("**the Law Enforcement Ordinance**").

Regulation 1 prescribes the form and manner in which individuals carrying on a business in partnership may apply for registration as controllers under the Law.

Regulation 2 prescribes the fee payable in respect of an application for registration. The fee is set out in Schedule 1 as the registration fee. Non profit organisations and elected representatives pay a nil fee.

Regulation 3 prescribes the information to be included in an application for registration and requires the Data Protection Authority to notify the controller or processor concerned after registration is effected.

Regulation 4 requires the Authority to maintain the most up-to-date register particulars available in the register of controllers and processors and to publish those particulars.

Regulation 5 requires registered controllers and registered processors to notify the Authority of any changes in the register particulars or the general description of security measures provided to the Authority. Failure to do so is an offence punishable by a fine.

Regulation 6 requires registered controllers and registered processors to pay an annual levy to the Authority and imposes penalties for late payment of the levy. The annual levy and late payment penalties are set out in Schedule 1. Non profit organisations and elected representatives are exempt from the levy.

Regulations 7 and 8 require controllers and processors, respectively, to keep records in relation to processing activities.

Regulation 9 exempts controllers or processors with fewer than 250 employees from those record-keeping duties where the processing is occasional, excludes special category data and is not high-risk processing.

** 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.

Regulation 10 prescribes the time for which records required under the Law (including any Ordinance or regulations made under it) must be kept.

Regulation 11 authorises personal data, including in certain cases, special category data, to be processed by specified persons for specified purposes under specified conditions, as set out in Schedule 2. Such processing of personal data would be lawful for the purposes of section 7 of the Law, and in the case of rows 13 to 16 of the table in Schedule 2, would also be lawful for the purposes of the Law Enforcement Ordinance.

Regulation 12 authorises the transfer of personal data to a person in an unauthorised jurisdiction by the Guernsey Financial Services Commission or International Stock Exchange Authority Limited, where the transfer is in the form of a disclosure authorised or required by any enactment and takes place under the conditions set out in Schedule 3. Such a transfer would be authorised for the purposes of the Law.

Regulation 13 amends Schedule 8 to the Law to insert a number of further exemptions, exceptions and modifications in relation to designated provisions of that Law (such as data subject rights and the duty to notify data subjects of personal data breaches in certain circumstances). Many of these are similar to exemptions, exceptions and modifications that were provided for in Orders made under the Data Protection (Bailiwick of Guernsey) Law, 2001, as well as provisions of that Law itself.

Regulation 14 disapplies section 16(2), (3) and (4) of the Law in circumstances where education, health or social assistance data would be disclosed relating to identifiable or identified individuals in the education, health or social assistance sectors who would normally expect their identity, etc. to be disclosed in response to a request made by the data subject for such data. The exception to this disapplication is where the controller has reason to be concerned that the disclosure of that data would be likely to result in a real and substantial risk to a vital interest of the individual concerned.

Regulation 15 continues the register of controllers formerly kept under the now-repealed Data Protection (Bailiwick of Guernsey) Law, 2001 ("**the former Law**") as the register to be maintained under the new Data Protection (Bailiwick of Guernsey) Law, 2017 subject to any necessary revisions.

Regulation 16 deems controllers notified under the former Law to be temporarily registered under the new Data Protection (Bailiwick of Guernsey) Law, 2017, until the first anniversary of the previous notification, unless the controller is registered earlier.

Regulation 17 exempts processors and controllers that were not required to be notified under the former Law from the requirement to register. But this exemption

does not apply to high-risk processing and in any case expires on the 25th May, 2019.

Regulation 18 sets out the interpretation provisions. Regulations 19 and 20 are the citation and commencement provisions respectively.

These Regulations come into force on the 25th May, 2018.

1 Prior to its repeal, paragraph (2) was amended by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 2, with effect from 25th May, 2019; the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2019, regulation 1, with effect from 1st January, 2020.

2 Paragraph (1) was previously substituted by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 3(a), with effect from 25th May, 2019.

3 Prior to its revocation, paragraph (3) was amended by the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations, 2019, regulation 6, with effect from 25th May, 2019; the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2019, regulation 1, with effect from 1st January, 2020.