

STATES OF JERSEY

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DRAFT DATA PROTECTION (SUBJECT ACCESS MISCELLANEOUS) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 6th September 2005
by the Finance and Economics Committee**

STATES GREFFE



Jersey

DRAFT DATA PROTECTION (SUBJECT ACCESS MISCELLANEOUS) (JERSEY) REGULATIONS 200

REPORT

Except in cases relating to credit reference information, Police National Computer data, educational and health records, the maximum fee a data controller may charge for a subject access request is £10.

For data controllers who are credit reference agencies, the maximum fee chargeable is £2 and the response time is reduced to 10 days. For requests relating to health records a maximum of £50 may be charged. For requests relating to educational records a maximum of £30 may be charged. For requests relating to criminal records that are held on the Police National Computer a maximum of £20 may be charged.

Any resource implications of these Regulations are already provided for within the resources of the Finance and Economics Committee.

Explanatory Note

These Regulations refer to the exercise of the right of access to personal data conferred by Article 7 of the Data Protection (Jersey) Law 2005.

They set out certain principles about the ambit of requests for subject access under Article 7 when the requests are not clear as to their ambit (*Regulation 2*).

They also (in *Regulation 3*) set at £10 the maximum fee that a data controller may charge for access to data when a request is made under Article 7(1), (2) or (3).

However, a request limited to personal data relevant to the applicant's financial standing and made to a credit reference agency attracts a maximum fee of £2 (*Regulation 4*).

A request for a record held on the Police National Computer, but accessed by request to the Chief Officer of the Police as the relevant data controller, attracts a maximum fee of £20 (*Regulation 5*) and a request to a school for a record held by it attracts a maximum fee of £30 (*Regulation 6*).

On the other hand, under *Regulation 7*, if a request is made before the end of the first 3 years of the Law's operation and in respect of what is partly a manual health record, the request attracts a maximum fee of £50 in the case where a permanent copy of the information is to be provided. But no fee is chargeable in the case of certain recent manual health records (and an individual may limit his or her request to this class of record).

The period for complying with a request limited to personal data relevant to the applicant's financial standing and made to a credit reference agency is 7 working days and not the usual 40 days (*Regulation 4*).

Regulation 8 sets out the name of the Regulations and states when they come into force.

These Regulations contribute to the implementation of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.



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Jersey

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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 7(4), (5) and (11), 8(1) and 67 of the Data Protection (Jersey) Law 2005,^[1] have made the following Regulations –

1 Interpretation

In these Regulations “Law” means the Data Protection (Jersey) Law 2005.

2 Extent of subject access requests

- (1) A request for information under any provision of Article 7(1) and (2) of the Law is to be treated as extending to information under the other provisions of those paragraphs.
- (2) A request for information under any provision of those paragraphs is to be treated as extending to information under the provisions of Article 7(3) of the Law if the request shows an express intention to that effect.
- (3) A request for information under the provisions of Article 7(3) of the Law is to be treated as extending also to information under any provision of Article 7(1) and (2) if the request shows an express intention to that effect.

3 Maximum subject access fee

For the purposes of Article 7(4)(b) of the Law, the prescribed maximum fee is £10, except as otherwise provided by Regulation 4, 5, 6 or 7.

4 Requests for subject access if data controller is credit reference agency

- (1) In any case in which a request under Article 7 of the Law has been made to a data controller who is a credit reference agency, and has been limited, or by virtue of Article 9(2) of the Law is taken to have been limited, to personal data relevant to an individual’s financial standing –
 - (a) for the purposes of Article 7(4)(b) of the Law, the prescribed maximum fee in respect of the request is £2; and
 - (b) for the purposes of Article 7(11) of the Law the prescribed period is 7 working days.
- (2) In this Regulation, “working day” means a day other than Christmas Day or Good Friday, and other than a Saturday, Sunday, bank holiday or public holiday.

5 Requests for subject access if data held on Police National Computer

In any case in which a request under Article 7 of the Law has been made to the Chief Officer of the States of Jersey Police Force as data controller in respect of personal data that are held on the Police National Computer the prescribed maximum fee in respect of the request is £20.

6 Requests for subject access if data held by school

In any case in which a request under Article 7 of the Law has been made to a school as data controller in respect of personal data that are held by the school the prescribed maximum fee in respect of the request is £30.

7 Certain subject access requests in respect of health records – transitional provisions

- (1) This Regulation applies only in the case of a request made under Article 7 of the Law that—
 - (a) relates wholly or partly to personal data forming part of a health record,
 - (b) does not relate exclusively to data within paragraphs (a) and (b) of the definition of data in Article 1(1) of the Law; and
 - (c) is made before the end of the first transitional period.
- (2) If the obligation imposed by Article 7(2)(a) of the Law is to be complied with by supplying the data subject with a copy of some or all of the information in permanent form, for the purposes of Article 7(4)(b) of the Law the prescribed maximum fee in respect of the relevant request is £50.
- (3) In any other case to which this Regulation applies, a data controller shall not require a fee if the relevant request relates solely to personal data that –
 - (a) are a health record some of which was made after the beginning of the period of 40 days immediately preceding the date of the request; and
 - (b) do not fall within paragraph (a) or (b) of the definition of data in Article 1(1) of the Law.
- (4) In the case of a request in any case to which this Regulation applies, an individual making the request may specify that it is limited to personal data of the description set out in paragraph (3).

8 Citation and commencement

These Regulations may be cited as the Data Protection (Subject Access Miscellaneous) (Jersey) Regulations 200- and shall come into force on 1st November 2005.

[\[1\]](#) L.2/2005.