

STATES OF JERSEY



DRAFT DATA PROTECTION (SUBJECT ACCESS EXEMPTIONS) (JERSEY) REGULATIONS 200-

Lodged au Greffe on 11th October 2005
by the Finance and Economics Committee

STATES GREFFE



Jersey

DRAFT DATA PROTECTION (SUBJECT ACCESS EXEMPTIONS) (JERSEY) REGULATIONS 200-

REPORT

Data controllers are exempt from the subject information provisions where compliance with those provisions would result in a contravention of the following –

- Trust (Jersey) Law 1984, Article 29.
- Adoption (Jersey) Law 1961, Articles 16(5), 18 (as amended) and Article 20 (as amended).
- Proceeds of Crime (Jersey) Law 1999, Article 35.
- Drug Trafficking (Jersey) Law 1998, Article 21.
- Terrorism (Jersey) Law 2002, Article 35.

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

Explanatory Note

These Regulations make exceptions to the right of access to personal data conferred by Article 7 of the Data Protection (Jersey) Law 2005 in 4 classes of case–

- (a) if, according to Jersey law, a data controller may or must refuse to divulge certain information about a Jersey trust;
- (b) if, according to the law of a foreign jurisdiction, a data controller may or must refuse to divulge certain information about a trust governed by that law;
- (c) if a data controller as a civil servant has a duty not to disclose certain details (e.g. from the adoption contact register or from birth records);
- (d) if a data controller as a member of the public knows about an investigation that is in train (in the context of drug trafficking, proceeds of crime or terrorism) and must not warn anyone about the investigation.

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 38(1) and 67 of the Data Protection (Jersey) Law 2005^[1] have made the following Regulations –

1 Trusts exemption from Article 7

Personal data in respect of a trust are exempt from Article 7 of the Data Protection (Jersey) Law 2005 to the extent that –

- (a) in the case of a trust the proper law of which is the law of Jersey – the personal data consist of information the withholding of which by the relevant data controller is authorized by Article 29 of the Trusts (Jersey) Law 1984^[2] or the disclosure of which by the relevant data controller would be contrary to a prohibition or restriction under any rule of law of Jersey; or
- (b) in the case of a trust the proper law of which is the law of a jurisdiction other than Jersey – the personal data consist of information the withholding of which by the relevant data controller is authorized by or under the law of that jurisdiction or the disclosure of which by the relevant data controller would be contrary to a prohibition or restriction under the law of that jurisdiction.

2 Miscellaneous exemptions from Article 7

Personal data that consist of information the disclosure of which by the relevant data controller would be contrary to a prohibition or restriction by any of the following enactments are exempt from Article 7 of the Data Protection (Jersey) Law 2005 –

- (a) Articles 24(5), 27(12) and 30(4)(b) of the Adoption (Jersey) Law 1961;^[3]
- (b) Article 44 of the Drug Trafficking Offences (Jersey) Law 1988;^[4]
- (c) Article 35 of the Proceeds of Crime (Jersey) Law 1999;^[5]
- (d) Article 35 of the Terrorism (Jersey) Law 2002.^[6]

3 Citation and commencement

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

[1] L.2/2005.

[2] Chapter 13.875.

[3] Chapter 12.050.

[4] Chapter 08.580.

[5] Chapter 08.780.

[6] Chapter 17.860.