

STATES OF JERSEY



DRAFT DATA PROTECTION (INTERNATIONAL CO- OPERATION) (JERSEY) REGULATIONS 200

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

STATES GREFFE



Jersey

DRAFT DATA PROTECTION (INTERNATIONAL CO-OPERATION) (JERSEY) REGULATIONS 200

REPORT

Specifies the functions to be discharged by the Commissioner as designated authority for the purposes of Article 13 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

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

Explanatory Note

Article 54(1) of the Data Protection (Jersey) Law 2005 provides that the Data Protection Commissioner shall continue to be the designated authority in Jersey for the purposes of Article 13 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data which was opened for signature on 28th January 1981. Article 54(2) provides that the States may by Regulations make provision as to the functions to be discharged by the Commissioner in that capacity.

These Regulations –

- (a) require the Commissioner on request to send to his or her equivalents in other places information about the law and practice relating to data processing in Jersey, a requirement that is mirrored in overseas legislation and of which the Commissioner may make use in the converse sense (*Regulation 2*);
- (b) require the Commissioner to assist persons resident outside Jersey who seek information or help about data processing in Jersey that may relate to them (*Regulation 3*);
- (c) require the Commissioner to assist Jersey residents who seek information or help about data processing outside Jersey that may relate to them (*Regulation 4*);
- (d) restrict the use that the Commissioner may make of information that he or she comes across as a result of a request to or by him or her, whether the request concerns overseas individuals or overseas authorities (*Regulation 5*).

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

1 Interpretation

(1) In these Regulations –

“Convention” means the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, which was opened for signature on 28th January 1981;

“foreign designated authority” means an authority designated for the purposes of Article 13 of the Convention by a party bound by the Convention, but does not include the Commissioner;

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

(2) The functions of the Commissioner set out in these Regulations are functions to be performed by the Commissioner as the designated authority in Jersey for the purposes of Article 13 of the Convention.

2 Co-operation between the Commissioner and foreign designated authorities

(1) The Commissioner shall, at the request of a foreign designated authority and for the purposes of Article 13(3)(a) of the Convention, furnish to that foreign designated authority such information on the law and administrative practice in the field of data protection in Jersey as is the subject of the request.

(2) The Commissioner shall, at the request of a foreign designated authority and for the purposes of Article 13(3)(b) of the Convention, take, in conformity with the law of Jersey and for the sole purpose of protection of privacy, all appropriate measures for furnishing factual information relating to specific automatic processing carried out in the territory of Jersey, with the exception however of the personal data being processed.

(3) A function of the Commissioner is to request a foreign designated authority to furnish the Commissioner with or, as the case may be, to take appropriate measures for furnishing the Commissioner with, the information referred to in Article 13(3) of the Convention.

3 Persons resident outside Jersey

(1) This Regulation applies if a person resident outside Jersey makes a valid request to the Commissioner under Article 14 of the Convention (whether directly or through a foreign designated authority) seeking assistance in exercising any of the rights under Article 8 of the Convention.

- (2) A request is a valid request for the purposes of paragraph (1) if it states –
 - (a) the name and address of the person making the request;
 - (b) particulars that identify the personal data to which the request relates;
 - (c) the rights under Article 8 of the Convention to which the request relates; and
 - (d) the reasons why the request has been made.
- (3) If the request –
 - (a) seeks assistance in exercising the rights under Article 7 of the Law; and
 - (b) does not indicate that the relevant data controller has failed, contrary to that Article, to comply with the same request on a previous occasion,

the Commissioner shall notify the person who made the request of the data controller’s address for the receipt of notices from data subjects exercising their rights under that Article and of such other information as the Commissioner considers necessary to enable that person to exercise his or her rights under that Article.
- (4) If the request indicates that a data protection principle has been contravened by a data controller the Commissioner shall –
 - (a) except if sub-paragraph (b) applies, notify the person who made the request of the rights of data subjects and the remedies available to them under Part 2 of the Law together with such particulars as are contained in the data controller’s entry in the register as are necessary to enable the person to avail himself or herself of those remedies; or
 - (b) if the Commissioner considers that notification in accordance with sub-paragraph (a) would not assist the requesting person or would, for any other reason, be inappropriate, treat the request as if it were a request for an assessment under Article 42 of the Law.
- (5) The Commissioner shall not be required, in response to a request that comes within paragraph (3) or (4), to supply to the person who made the request a duly certified copy in writing of the particulars contained in an entry made in the register other than on payment of such fee as is prescribed for the purposes of Article 19(7) of the Law.

4 Persons resident in Jersey

- (1) If a request for assistance in exercising, in a country or territory outside Jersey, any of the rights referred to in Article 8 of the Convention is made by a person resident in Jersey and submitted to the Commissioner under Article 14(2) of the Convention, the Commissioner shall, if satisfied that the request contains all necessary particulars referred to in Article 14(3) of the Convention, send it to the foreign designated authority in the specified country or territory.
- (2) If the Commissioner decides that he or she is not required to comply with paragraph (1) in respect of a request he or she shall, if practicable, notify the person who made the request of the reasons for the decision.

5 Restrictions on use of information

If the Commissioner receives information from a foreign designated authority as a result of –

- (a) a request by the Commissioner referred to in Regulation 2(3); or
- (b) a request received by the Commissioner under Regulation 2(2) or 3,

the Commissioner shall not use the information except for the purposes specified in the request.

6 Citation and commencement

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

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