THE DATA PROTECTION (COMMENCEMENT, AMENDMENT AND TRANSITIONAL) (BAILIWICK OF GUERNSEY) ORDINANCE, 2018

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance is made under the Data Protection (Bailiwick of Guernsey) Law, 2017 ("**the Law**"). It amends the Law, makes consequential amendments to Ordinances in Guernsey, Sark and Alderney relating to e-Privacy, and makes transitional and savings provisions. It brings the Law into force on the 25th May, 2018.

PART I
PRELIMINARY

This Part brings the Law and this Ordinance into force on the 25th May, 2018.

PART II
TRANSITION FOR OPERATIVE PROVISIONS

This Part provides for a transitional period of one year before controllers and processors are required to comply with certain duties under the Law or the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018 ("**Law Enforcement Ordinance**"). It also allows public authorities to continue processing personal data under the Law based on the legitimate interest of those public authorities during this transitional period. Finally this Part makes provision for notification of a personal data breach occurring before the commencement of the Law.

PART III
SAVING OF CONSENTS, PROCEEDINGS AND OTHER MATTERS

This Part saves the effect of consent to authorisation validly obtained under the Data Protection (Bailiwick of Guernsey) Law, 2001 ("**former Law**") before the commencement of the Law. It also saves designations and notifications of Bailiwick representatives, and authorisations for transfers given by the Data Protection Commissioner under the former Law. Finally, it saves proceedings brought or offences

committed under the former Law, and provides for other things done under the former Law to continue to have effect where there are corresponding provisions for those things under the new Law.

PART IV
TRANSITION OF RIGHTS, RECORDS, ETC

This Part transfers assets, rights, liabilities, obligations, records, etc. of the Data Protection Commissioner to the Authority.

PART V
GENERAL

This Part revokes Orders and Regulations made under the former Law, and makes several amendments to the Law. It also amends the European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004 and equivalent Ordinances in Alderney and Sark to align those Ordinances with the enforcement provisions under the new Law. Finally it sets out the interpretation and citation provisions.

The Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018

ARRANGEMENT OF SECTIONS

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PRELIMINARY

PART II
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PART V
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19.   Revocations.
20.   Amendments to the Data Protection (Bailiwick of Guernsey) Law, 2017.
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The Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018

THE STATES, in pursuance of their Resolution of the 26ᵗʰ April, 2017**a**, and in exercise of the powers conferred on them by sections 103, 104, 105, 106, 107, 108 and 115 of the Data Protection (Bailiwick of Guernsey) Law, 2017**b** 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 order:-

PART I
PRELIMINARY

Commencement of the Data Protection (Bailiwick of Guernsey) Law, 2017 and this Ordinance.

1.   The Data Protection (Bailiwick of Guernsey) Law, 2017 and this Ordinance shall come into force on the 25ᵗʰ May, 2018.

PART II
TRANSITION FOR OPERATIVE PROVISIONS

Transitional exemption from duty to notify pre-collected personal data.

2.   (1)   Until the transition date and subject to subsection (2), a controller is not required to comply with a notification duty in relation to the processing of pre-collected personal data in the context of the controller.

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a   Article VI of Billet d'État No. VIII of 2017.

b   Order in Council No. * of 2018; as amended by the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018.

(2)   On request by a data subject, a controller exempt from a notification duty by reason only of subsection (1) must give the data subject any information that the notification duty would otherwise have required the controller to –

(a)   give to the data subject, or

(b)   otherwise publish in relation to the pre-collected personal data relating to the data subject.

(3)   In this section –

"**notification duty**" means any duty imposed on a controller by –

(a)   section 12(2), (3) or (3A) of the Law,

(b)   section 13(1), (2) or (2A) of the Law,

(c)   section 17(3) of the Law,

(d)   section 18(3) of the Law, or

(e)   section 12(2) or (3) of the Law Enforcement Ordinance, and

"**pre-collected personal data**" means any personal data processed in the context of a controller, where the personal data was collected before the commencement date –

(a)   by the controller, or a processor acting on the controller's behalf, or

(b)   otherwise for the purposes of the processing.

Transitional exemption from duties of joint controllers in relation to continued processing.

3.   (1)   Until the transition date, a controller is not required to comply with a joint controller duty in relation to continued processing of personal data in the context of the joint controllers concerned.

(2)   In subsection (1), "**joint controller duty**" means any duty imposed on joint controllers by –

(a)   section 33(1) or (3) of the Law, or

(b)   section 28(1) of the Law Enforcement Ordinance.

Transitional exemption from impact assessment duties in relation to continued processing.

4.   (1)   Until the transition date, a controller is not required to comply with an impact assessment duty in relation to continued processing of personal data in the context of the controller.

(2)   In subsection (1), "**an impact assessment duty**" means any duty imposed on a controller –

(a) to carry out, review or revise an assessment under section 44(1) or (5) of the Law or section 36(1) of the Law Enforcement Ordinance, or

(b) to consult the Authority under section 45(2) of the Law or section 37(2) of the Law Enforcement Ordinance.

Transitional exemption from processor-use duties in relation to continued processing.

5. (1) Until the transition date, a controller is not required to comply with a processor-use duty where –

(a) the controller causes or permits a processor to carry out processing of personal data in the context of that controller, and

(b) the processing is continued processing of the personal data in the context of both the controller and the processor concerned.

(2) In subsection (1), "**processor-use duty**" means any duty imposed on a controller by –

(a) section 34(1) of the Law, or

(b) section 29(1) of the Law Enforcement Ordinance.

Transitional exemption from processor's duty to establish measures in relation to continued processing.

     6.   (1)   Until the transition date, a processor is not required to comply with a duty to establish measures in respect of the controller, in relation to continued processing of personal data in the context of both the processor and that controller.

     (2)   In subsection (1), "**duty to establish measures**" means any duty imposed on a processor by –

     (a)   section 35(1)(e) of the Law,

     (b)   section 36(3) of the Law, to the extent that it imposes a duty on the processor under section 35(1)(e) of the Law, or

     (c)   section 30(1)(e) of the Law Enforcement Ordinance.

Transitional exemption from processor's duty to obtain controller authorisation for secondary processors.

     7.   (1)   Until the transition date, a processor is not required to comply with a duty to obtain authorisation from the controller in relation to a secondary processor where –

     (a)   the processor is carrying out continued processing of personal data in the context of both the processor and that controller, and

(b) the processor had, before the commencement date, engaged the secondary processor concerned to process that personal data.

(2) In subsection (1) –

"**duty to obtain authorisation**" means any duty imposed on a processor by –

(a) section 36(1) of the Law, or

(b) section 31(1) of the Law Enforcement Ordinance, and

"**secondary processor**", in relation to section 36(1) of the Law or section 31(1) of the Law Enforcement Ordinance, has the meaning given by the respective provision.

Meaning of "continued processing".

8. (1) For the purposes of sections 3 to 7, processing of personal data ("**the processing concerned**") is continued processing in the context of a controller or processor where processing of the same kind as the processing concerned –

(a) was carried out on the personal data in the context of the controller or processor concerned lawfully, in accordance with the former Law, before the commencement date, and

(b) is continued in the context of the controller or processor concerned after the Law comes into force.

(2)   Whether any processing carried out in the context of a controller or processor before the commencement date ("**the previous processing**") is of the same kind as the processing concerned must be determined having regard to the nature, scope, context and purpose of the previous processing in comparison to the processing concerned, including whether or not the processing concerned involves the use or application of a technology, mechanism or procedure that was neither used nor applied in the previous processing.

Transitional provision for processing by public authorities based on legitimate interest.

9.   Until the transition date, paragraph 4 of Schedule 2 to the Law has effect as if –

> (a)   immediately after "party", a full stop were substituted for the comma, and

> (b)   the words "except where the processing is in the context of the exercise or performance by a public authority of a function or task described in paragraph 5" were omitted.

Delayed effect of section 14 (right to data portability) of the Law

10.   (1)   Until the transition date, neither section 14 of the Law nor any corresponding provision has effect.

(2)   In subsection (1), "**any corresponding provision**" means any provision of section 6 of the Law, or of any other section of the Law, so far as the provision corresponds to a right or duty in section 14 of the Law.

Reporting of personal data breaches occurring before commencement.

11. (1) A controller or processor is required to comply with a duty to report a personal data breach regardless whether the breach occurred before or after the Law comes into force.

(2) However, a controller is not required to comply with a duty to report a personal data breach unless the controller first becomes aware of the personal data breach after the Law comes into force.

(3) In this section, "**a duty to report**", in relation to any personal data breach, means a duty to give notice of the breach –

(a) imposed on a controller by any of the following provisions –

(i) section 42(2) or 43(1) of the Law, or

(ii) section 34(2) or 35(1) of the Law Enforcement Ordinance, or

(b) imposed on a processor by any of the following provisions –

(i) section 42(1) of the Law, or

(ii) section 34(1) of the Law Enforcement Ordinance.

PART III
SAVING OF CONSENTS, PROCEEDINGS AND OTHER MATTERS

Validity of consents obtained before commencement.

    12.   (1)   This section applies to consent to the processing of personal data where –

    (a)   the consent was given by the data subject before the commencement date,

    (b)   the consent had effect as consent for that processing under the former Law immediately before the commencement date,

    (c)   the consent was not given on the basis of false, deceptive or misleading information or conduct, knowingly or recklessly provided or perpetrated by –

    (i)   the controller,

    (ii)   the processor, or

    (iii)   any other person who sought the consent or to whom the consent was given, and

    (d)   the data subject has not withdrawn the consent –

    (i)   by giving written notice to the controller, or

(ii)   by any other means provided for by the controller.

(2)   Where a consent to which this section applies also meets the definition of a consent in section 10(1) and all the other requirements and conditions in section 10 of the Law for consent to be valid for the purposes of the Law, the consent has effect as consent to that processing for the purposes of the Law and the Law Enforcement Ordinance.

(3)   In any other case, despite any provision to the contrary in section 10 of the Law, a consent to which this section applies must be regarded as consent to that processing for the purposes of the Law and the Law Enforcement Ordinance until the earlier of –

(a)   the data subject withdrawing the consent –

(i)   by giving written notice to the controller, or

(ii)   by any other means provided for by the controller, or

(b)   the occurrence of the transition date.

Prior designation and notification of Bailiwick representatives.

13.   A controller is not required under section 38(2)(a) to (c) of the Law to designate a representative, notify the Authority of the name and contact details of the representative or authorise the representative to receive notices and other communications if, before the commencement date, the controller has so designated a representative, so notified the former Commissioner or so authorised the

representative.

Saving of authorisation for transfer to unauthorised jurisdictions.

14.   An authorisation by the former Commissioner under paragraph 9 of Schedule 4 to the former Law for the transfer of personal data to an unauthorised jurisdiction in force immediately before the commencement date has effect as if it were an authorisation for the transfer given by the Authority under section 57(1) of the Law until the authorisation is revoked by the Authority.

Saving of proceedings, etc. under former Law.

15.   (1)   Any proceedings under the former Law not cancelled, withdrawn or finally determined before the commencement date –

(a)   continue to have effect,

(b)   may be cancelled, withdrawn or amended, and

(c)   may otherwise be continued, proceeded upon, completed and finally determined,

in accordance with the provisions of the former Law, as if –

(i)   the former Law had not been repealed, but

(ii)   the former Commissioner were substituted with the Authority.

(2)   Subsection (3) applies to any legal proceeding (other than proceedings of the kind saved by subsection (1)), not cancelled, withdrawn or finally

determined before the commencement date –

(a)   in relation to any act or omission of the former Commissioner in the former Commissioner's official capacity or in connection with the discharge of former Commissioner's official functions, and

(b)   to which the former Commissioner is a party.

(3)   Proceedings to which this subsection applies –

(a)   continue to have effect,

(b)   may be cancelled, withdrawn or amended, and

(c)   may otherwise be continued, proceeded upon, completed and finally determined,

as if the Authority were a party to those proceedings instead of the former Commissioner.

(4)   In subsection (1), "**proceedings under the former Law**" includes –

(a)   a request made under section 7 of the former Law,

(b)   a claim for compensation made under section 13 of the former Law,

(c)   an application for rectification, blocking, erasure or destruction under section 14 of the former Law,

(d)   a request for assessment made under section 42 of the former Law,

(e)   any assessment or determination made by the former Commissioner under the former Law,

(f)   an information notice or a special information notice served under section 43 or 44 of the former Law, respectively,

(g)   an enforcement notice served under section 40 of the former Law, and

(h)   any appeal made under the former Law.

Offences under former Law.

16.   (1)   Where a person commits an offence under any provision of the former Law wholly or partly before the commencement date, the person may be charged and proceeded against in accordance with the provisions of the former Law, as if –

(a)   the former Law had not been repealed, but

(b)   the former Commissioner were substituted with the Authority.

(2)   In section 100(1)(b)(ii)(A) of the Law, the reference to an offence under section 88(2) of the Law is deemed to include a reference to an offence under paragraph 11 of Schedule 8 to the former Law.

(3)   In paragraph 10 of Schedule 8 to the Law (including that provision as applied by section 48 of the Law Enforcement Ordinance), the reference to an offence under the Law is deemed to include a reference to an offence under the former Law.

(4)   In sections 43(8) and 44(9) of, and paragraph 11(1) and (2) of Schedule 6 to, the former Law to the extent that any of those provisions are saved and continued by any provision of this Ordinance, a reference to an offence under the former Law is deemed to include an offence under the Data Protection (Bailiwick of Guernsey) Law, 2017.

Other things done under former Law.

17.   Unless the context requires otherwise, and subject to any provision of this Ordinance to the contrary, anything done or having effect as if done (excluding the making of any Ordinance or subordinate legislation) under or for the purposes of any provision of the former Law has effect as if done under or for the purposes of any corresponding provision of the Law or any Ordinance, Regulations or other subordinate legislation made under the Law.

PART IV
TRANSITION OF RIGHTS, RECORDS, ETC.

Rights, liabilities, records, etc.

18.   (1)   All assets, rights, liabilities and obligations of the former Commissioner in the former Commissioner's official capacity or arising out of the

discharge of the former Commissioner's official functions are the assets, rights, liabilities and obligations of the Authority.

(2)   An agreement entered into by the former Commissioner in the former Commissioner's official capacity or in connection with the discharge of the former Commissioner's official functions has effect as if –

(a)   the Authority were a party to it instead of the former Commissioner, and

(b)   any reference to the former Commissioner were, in relation to anything to be done after the Law comes into force, a reference to the Authority.

(3)   Any record or requirement made by, any information given to, any document deposited with, any record kept by, or any statement made to, the former Commissioner in the former Commissioner's official capacity or in connection with the discharge of the former Commissioner's official functions at any time before the commencement date is taken, on and from that time, to have been made by, given to, deposited with, kept by or made to, the Authority.

(4)   Neither subsection (2) nor (3) limits subsection (1).

(5)   The Commissioner must do everything necessary to give effect to subsection (1), (2) and (3), including making or amending any registration, notification or transfer requested by the Authority to give effect to those provisions.

(6)   This section is subject to section 60A of the Law.

PART V
GENERAL

Revocations.

19.   The Orders and Regulations specified in Schedule 1 are revoked.

Amendments to the Data Protection (Bailiwick of Guernsey) Law, 2017.

20.   The Law is amended as set out in Schedule 2.

Consequential amendments to e-Privacy Ordinances.

21.   The following enactments are amended as set out in Schedule 3 –

(a)   the European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004[c],

(b)   the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009[d], and

(c)   the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Sark) Ordinance, 2004[e].

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[c]   Ordinance No. XXIV of 2004; as amended by Ordinance No. II of 2010; No. XIII of 2012; and No. IX of 2016.

[d]   Alderney Ordinance No. VIII of 2009; as amended by Alderney Ordinance No. III of 2010; and Ordinance No. XIII of 2012.

[e]   Sark Ordinance No. 136; as amended by Sark Ordinance No. 184; Sark Ordinance No. VI of 2015; and (Guernsey) Ordinance No. XIII of 2012.

Interpretation.

    22.   (1)   In this Ordinance, unless the context requires otherwise –

"**commencement date**" means the 25th May, 2018,

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

"**the former Law**" –

    (a)   means the Data Protection (Bailiwick of Guernsey) Law, 2001[f], and

    (b)   includes –

        (i)   any Ordinance repealed by section 113(b), (c) or (d) of the Law, and

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[f]   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.

> > (ii)   any Order or Regulation revoked by section 19
> > of this Ordinance,

"**the Law**" means the Data Protection (Bailiwick of Guernsey) Law,
2017,

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

"**official capacity**", in relation to the former Commissioner, means in
the former Commissioner's capacity as, or in respect of the office of, the Data
Protection Commissioner under the former Law,

"**official function**", in relation to the former Commissioner, means a
function conferred or imposed on the former Commissioner under the former
Law,

"**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, and

"**the transition date**" means the 25ᵗʰ May, 2019.

(2)   A reference in this Ordinance to a provision or Part of the Law
or the Law Enforcement Ordinance includes a reference to any regulations made

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ᵍ   Ordinance No. * of 2018.

under, or any Schedule given effect by, the provision or Part of the Law or (as the case may be) the Law Enforcement Ordinance.

(3)   An expression used in this Ordinance that is also used in the Law or the Law Enforcement Ordinance has the same meaning as in the Law or (as the case may require) the Law Enforcement Ordinance unless –

(a)   the expression is otherwise defined in this Ordinance, or

(b)   the context requires otherwise.

(4)   The Interpretation (Guernsey) Law, 1948[h] applies to the interpretation of this Ordinance throughout the Bailiwick of Guernsey.

(5)   Any reference in this Ordinance to an enactment or a Community provision is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

23.   This Ordinance may be cited as the Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018.

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[h]   Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE 1

ORDERS AND REGULATIONS REVOKED

The Data Protection (Bailiwick of Guernsey) Law, 2001 (Commencement) Order, 2002[i].

The Data Protection (Credit Reference Agency) (Statement of Rights) Regulations, 2002[j].

The Data Protection (Miscellaneous Subject Access Exemptions) Order, 2002[k].

The Data Protection (Subject Access Modification) (Education) Order, 2002[l].

The Data Protection (Subject Access Modification) (Health) Order, 2002[m].

The Data Protection (Subject Access Modification) (Social Work) Order, 2002[n].

The Data Protection (Processing of Sensitive Personal Data) Order, 2002[o].

The Data Protection (Further Conditions concerning Fair Processing) Order, 2002[p].

The Data Protection (Non-disclosure Exemption) Order, 2002[q].

The Data Protection (Corporate Finance Exemption) Order, 2002[r].

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[i]   G.S.I. No. 10 of 2002.

[j]   G.S.I. No. 12 of 2002.

[k]   G.S.I. No. 13 of 2002.

[l]   G.S.I. No. 14 of 2002.

[m]   G.S.I. No. 15 of 2002.

[n]   G.S.I. No. 16 of 2002.

[o]   G.S.I. No. 17 of 2002.

[p]   G.S.I. No. 18 of 2002.

[q]   G.S.I. No. 19 of 2002.

[r]   G.S.I. No. 20 of 2002.

The Data Protection (Functions of Designated Authority) Order, 2002[s].

The Data Protection (Fees under section 19(7)) Regulations, 2002[t].

The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations, 2002[u].

The Data Protection (Notification and Notification Fees) Regulations, 2002[v].

The Data Protection (Transfer in the Substantial Public Interest) Order, 2002[w].

The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order, 2004 (signed by M. W. Torode on the 15th December, 2004)[x].

The Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2004[y].

The Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2009[z].

The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) (Revocation) Order, 2009[aa].

The Data Protection (Notification and Notification Fees) (Revocation) Regulations, 2009[bb].

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[s]   G.S.I. No. 21 of 2002.

[t]   G.S.I. No. 22 of 2002.

[u]   G.S.I. No. 23 of 2002.

[v]   G.S.I. No. 24 of 2002.

[w]   G.S.I. No. 28 of 2002.

[x]   G.S.I. No. 72 of 2009.

[y]   G.S.I. No. 73 of 2009.

[z]   G.S.I. No. 38 of 2009.

[aa]   G.S.I. No. 52 of 2009.

The Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2010[cc].

The Data Protection (References to Committees of the States) (Miscellaneous Amendments) Order, 2010[dd].

The Data Protection (Bailiwick of Guernsey) Law, 2001 (Commencement) Order, 2010[ee].

The Data Protection (Crown Appointments) Order, 2010[ff].

The Data Protection (Processing of Personal Data) Order, 2010[gg].

The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) (Amendment) Regulations, 2010[hh].

The Data Protection (Processing of Personal Data) (STSC) Order, 2012[ii].

The Data Protection (Subject Access Exemptions) (Guernsey) Order, 2015[jj].

The Data Protection (Public Information Designation) (Revocation) Order, 2015[kk].

The Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2016[ll].

[bb]   G.S.I. No. 53 of 2009.

[cc]   G.S.I. No. 7 of 2010.

[dd]   G.S.I. No. 8 of 2010.

[ee]   G.S.I. No. 9 of 2010.

[ff]   G.S.I. No. 10 of 2010.

[gg]   G.S.I. No. 51 of 2010.

[hh]   G.S.I. No. 59 of 2010.

[ii]   G.S.I. No. 36 of 2012.

[jj]   G.S.I. No. 99 of 2015.

[kk]   G.S.I. No. 100 of 2015.

The Data Protection (Processing of Sensitive Personal Data) (Ofsted) Order, 2017[mm].

The Data Protection (Transfer in the Substantial Public Interest) (Amendment) Order, 2017[nn].

[ll]   G.S.I. No. 13 of 2016.

[mm]   G.S.I. No. 61 of 2017.

[nn]   G.S.I. No. 92 of 2017.

SCHEDULE 2

AMENDMENTS TO THE DATA PROTECTION (BAILIWICK OF GUERNSEY)
LAW, 2017

Provision or part amended	Amendment
Section 7	Renumber this section "7(1)". Immediately after the new subsection (1), insert the following subsection – "(2) Despite anything to the contrary in subsection (1), the keeping of a comprehensive register of criminal convictions by any person other than a competent authority (within the meaning of section 50(1) of the Law Enforcement Ordinance) is not lawful for the purposes of the data protection principle of Lawfulness, Fairness and Transparency."

Section 12	Immediately after subsection (3), insert –
	    "(3A) Where the controller intends to further process the personal data for a purpose other than that for which the data was collected, the controller must give the data subject prior to the further processing –
	        (a) information on the other purpose, and
	        (b) any relevant further information specified in Schedule 3.".
	
	Immediately after subsection (4), insert –
	    "(5) Nothing in subsection (2), (3) or (3A) requires the controller to give the data subject any information that the data subject already has.".

Section 13	Immediately after subsection (2), insert –
	    "(2A) Where the controller intends to further process the personal data for a purpose other than that for which the controller originally processed the personal data, the controller must give the data subject prior to the further processing –
	        (a) information on the other purpose, and
	        (b) any relevant further information specified in Schedule 3.".
	
	In subsection (4), for "or (2)", substitute ", (2) or (2A)".

Provision or part amended	Amendment
Section 17	In subsection (5), for "Where", substitute "Despite any provision in an e-Privacy Ordinance to the contrary, where". Immediately after subsection (5), insert – "(6) In subsection (5), "**e-Privacy Ordinance**" means any Ordinance specified in section 104(2)(b).".
Section 21(6)	For "or 13", substitute "13 or 13A".
Section 24(2)(b) and (4)(b)	Omit "who is a third party" in each place it occurs.
Section 29(3)	Immediately after "proof", insert "on the balance of probabilities".
Section 35(3)	Immediately after "("**the authorised person**")", insert ", other than an employee of the controller or (as the case may be) processor,".
Section 35(4)	Omit this subsection.
Section 45(7)	For "latter", substitute "later".
Section 47(1)(a)	Immediately after "authority", insert ", other than a court or tribunal acting in its judicial capacity".
Section 49(1)	For "a staff member", substitute "an employee".
Section 52(3)(c)	For "a", substitute "more than one".
Section 57	In the heading of this section, omit "specific". In subsection (1), immediately after "has", insert "generally or".
Section 61(6)	Immediately after "proof", insert "on the balance of probabilities".

Part XI	Immediately after section 60 of this Part, insert –
	"**Former Commissioner and employees deemed to be employed by the Authority.**
	    60A. (1) On the commencement of this Law, subject to the provisions of Schedule 6A –
	          (a) the former Commissioner is deemed to have been duly appointed and employed as the Commissioner by the Authority in accordance with Schedule 6, and

Provision or part amended	Amendment
	(b) any other individual holding any office or position in the office of the Data Protection Commissioner immediately before the commencement of this Law is deemed to have been duly employed by the Authority in the office or position concerned in accordance with Schedule 6. (2) For the purposes of Schedule 6A, the individual who is the former Commissioner is deemed to have been employed by the States of Guernsey immediately before the commencement of this Law under a contract of employment containing the terms and conditions of that individual's appointment as the Data Protection Commissioner under the Data Protection (Bailiwick of Guernsey) Law, 2001. (3) Schedule 6A has effect. (4) In this section and Schedule 6A, "**the former Commissioner**" means the Data Protection Commissioner under Data Protection (Bailiwick of Guernsey) Law, 2001.".
Section 73	Immediately after subsection (7), insert – "(7A) In determining what, if any, order to make under section 73(2) where a controller or processor has breached an operative provision, the Authority must have regard to the matters specified in section 74(2)(a) to (j).".
Section 74(1)	Immediately after paragraph (f), insert – "(fa) failure to comply with an order under section 73(2) within the time specified in the order for compliance".
Part XVI	Immediately after section 100, insert – "**Saving of international agreements.** **100A**. Nothing in this Law affects the validity or effect of any international agreement imposing an international obligation on the Bailiwick in relation to the transfer of personal data to an unauthorised jurisdiction, to the extent that the agreement – (a) was concluded before the commencement of this Law, and (b) is consistent with the Data Protection (Bailiwick of Guernsey) Law, 2001.".
Section 111(1)	For the definition of "**adequacy decision**", substitute the following definition – " "**adequacy decision**" in respect of any country, sector within

Provision or part amended	Amendment
	a country or international organisation –
    (a)   means a decision made by the European Commission that the country, sector or international organisation concerned ensures an adequate level of protection within the meaning of Article 45(2) of the GDPR, and
    (b)   includes a finding of the European Commission under Article 31(2) of the former Directive, in force immediately before the commencement date, that the country, sector or international organisation concerned ensures an adequate level of protection within the meaning of Article 25(2) of that former Directive, unless and until the European Commission revokes the finding or decides that the country, sector or international organisation concerned does not ensure an adequate level of protection within the meaning of Article 45(2) of the GDPR,".

In the definition of "**controller**", immediately after paragraph (b), insert –
    "but
    (c)   excludes an employee of a controller (within the meaning of paragraph (a) or (b) of this definition), who determines the purposes and means of the processing of the personal data on behalf of the controller,".

In the definition of "**designated jurisdiction**" –
(a)   in paragraph (c), for "other country within the British Islands", substitute "Crown Dependency", and
(b)   in paragraph (d) –
    (i)   immediately after "sector", insert "(within the meaning of the GDPR)", and
    (ii)   immediately after "country, insert "or dependency".

In the definition of "**law enforcement purpose**" –
(a)   at the end of paragraph (b), omit "or", and
(b)   immediately after paragraph (c), insert –
    "or
    (d)   exercising or performing any power or duty conferred |

Provision or part amended	Amendment
	or imposed on a public authority by a criminal proceeds enactment,

	In the definition of "**processor**", immediately after paragraph (b), insert –
	
	"but
	(c) excludes –
	      (i) an employee of a controller, who processes personal data on behalf of the controller, and
	      (ii) an employee of a processor (within the meaning of paragraph (a) or (b) of this definition), who processes personal data on behalf of the processor,".

	In the definition of "**public security**", immediately after "Islands", insert "or any country outside the British Islands".

	For the definition of "**standard data protection clause**", substitute the following definition –
	
	" "**standard data protection clauses**" –
	    (a) means standard contractual clauses for data protection
	      (i) approved or adopted by the European Commission for the purposes of Article 28 of the GDPR, or
	      (ii) approved by the Authority for the purposes of this Law, and
	    (b) includes standard contractual clauses that the European Commission decided under Article 26(4) of the former Directive offer sufficient safeguards for the purposes of Article 26(2) of that Directive, unless and until the European Commission revokes that decision or otherwise determines not to approve or adopt those clauses as standard data protection clauses for the purposes of Article 28 of the GDPR,".

	Insert in the appropriate alphabetical order, the following definitions–
	    " "**criminal proceeds enactment**" means –
	      (a) any of the following enactments, including any

Provision or part amended	Amendment
	Ordinance or subordinate legislation made under any of them – (i) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, (ii) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, (iii) the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, (iv) the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991, (v) the Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2001, (vi) the Forfeiture of Money etc. in Civil Proceedings (Bailiwick of Guernsey) Law, 2007, (vii) the Disclosure (Bailiwick of Guernsey) Law, 2007, (viii) the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, or (ix) the Beneficial Ownership of Legal Persons (Alderney) Law, 2017, or (b) any enactment, in any country outside the Bailiwick, that is similar or comparable in purpose or effect to an enactment mentioned in paragraph (a),", " "**employee**" includes a servant within the meaning of Schedule 1,", and " "**tribunal**" means an office-holder or a body of persons, other than a court, that judges, adjudicates on or otherwise determines claims, disputes or other contentious matters following legal proceedings,".
Section 111	Immediately after subsection (1), insert the following subsection – "(1A) The Committee may by regulations amend the definition of "**criminal proceeds enactment**" in subsection (1).".
Schedule 2	Immediately after paragraph 13, insert the following paragraph – "**13A**. The processing is necessary for a law enforcement purpose.".
Paragraphs 3 and 19 of	Omit "who is a third party" in each place it occurs.

Provision or part amended	Amendment
Schedule 2	
Paragraph 1(5) of Schedule 6	For "five years or any shorter period that", substitute "not less than four, and not more than five, years as".

The Schedules	Immediately after Schedule 6, insert the following schedule –
	
	"SCHEDULE 6A
	EFFECT OF TRANSFER ON CONTRACTS OF EMPLOYMENT, ETC.
	Section 60A
	
	1. **Effect of deemed employment by Authority on contract of employment.**
	(1) Subject to subparagraph (4), the deemed employment of an individual under section 60A(1) does not terminate the contract of employment of the former Commissioner or any other individual employed by the States of Guernsey in the office of the Data Protection Commissioner in force immediately before the commencement of this Law; on the commencement of this Law, any such contract has effect as if originally made between the individual so employed and the Authority.
	(2) Without prejudice to subparagraph (1), but subject to subparagraph (4), on the commencement of this Law –
	    (a) all the rights, powers, duties and liabilities of the States of Guernsey under or in connection with any contract of employment described in subparagraph (1) are transferred by virtue of this Schedule to the Authority, and
	    (b) anything done before the commencement of this Law by or in relation to the States of Guernsey in respect of that contract or an individual employed under that contract is deemed to have been done by or in relation to the Authority.
	(3) Subparagraph (2) does not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of and sentenced for any offence.
	(4) If, within the period of 3 months after the commencement of this Law, the employee gives the Authority written notice that the employee objects to becoming employed by the Authority, upon the Authority's receipt of the notice –

Provision or part amended	Amendment
	(a) the employee's deemed employment by the Authority is deemed to be terminated,
	(b) the employee is deemed to revert to being employed by the States of Guernsey, instead of the Authority, and
	(c) the employee must not be treated for any purpose as having been dismissed by either the Authority or the States of Guernsey.
	(5) Subparagraphs (1) and (4) are without prejudice to any right of an employee (arising apart from subparagraph (4)) to terminate the employee's contract of employment without notice if a substantial change is made in the employee's working conditions to the employee's detriment; but no such right arises by reason only that, under those subparagraphs, the identity of the employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to the employee's detriment.
	2. **Effect of deemed employment by the Authority on collective agreements.** Where immediately before the commencement of this Law there exists a collective agreement made by or on behalf of the States of Guernsey with a trade union recognised by the States of Guernsey in respect of any employee whose contract of employment is preserved by paragraph 1(1), then on and after the commencement of this Law –
	(a) that agreement, in its application in relation to the employee, has effect as if made by or on behalf of the Authority with that trade union; and accordingly anything done under or in connection with it in its application as aforesaid by or in relation to the States of Guernsey before the commencement of this Law is deemed to have been done by or in relation to the Authority, and
	(b) any order made in respect of that agreement, in its application in relation to the employee, has effect as if the Authority were a party to the agreement.
	3. **Non-application of paragraphs 1 and 2 to occupational pension schemes**.
	(1) Neither paragraph 1 nor 2 applies –

Provision or part amended	Amendment

	(a) to any part of a contract of employment or collective agreement that relates to an occupational pension scheme of a description set out in section 157C(1)(e) of the Income Tax (Guernsey) Law, 1975, or
	
	    (b) to any rights, powers, duties or liabilities under or in connection with any such contract or subsisting by virtue of any such agreement and relating to such a scheme or otherwise arising in connection with a person's employment and relating to such a scheme.
	
	(2) For the purposes of subparagraphs (1) and (3), any provisions of an occupational pension scheme which do not relate to benefits for old age, invalidity or survivors must not be treated as part of the scheme.
	
	(3) An employee whose contract of employment is transferred by virtue of paragraph 1(1) is not entitled to bring a claim against either the Authority or the States of Guernsey for –
	
	    (a) breach of contract, or
	
	    (b) constructive unfair dismissal under Part II of the Employment Protection (Guernsey) Law, 1998,
	
	arising out of a loss or reduction in the employee's rights under an occupational pension scheme described in subparagraph (1)(a) in consequence of the transfer, save insofar as the alleged breach of contract or dismissal (as the case may be) occurred before the commencement of this Law.
	
	4. **<u>Dismissal of employee because of transfer of employment contract</u>.**
	
	(1) If any individual deemed to be employed by the Authority under section 60A(1) is dismissed at any time before or after the commencement of this Law, the dismissal of the employee must be regarded for the purposes of Part II of the Employment Protection (Guernsey) Law, 1998 as having been unfair if the reason for the dismissal (or, if more than one, the principal reason) was the transfer of the employment contract under paragraph 1(1) and (2) or a reason connected with it; and the provisions of that Law apply accordingly.
	
	(2) Subparagraph (1) is subject to the provisions of the Employment Protection (Guernsey) Law, 1998.
	
	5. **<u>The Law to prevail in case of conflict</u>.**

Provision or part amended	Amendment
	If there is any conflict between the terms and conditions of an employment contract having effect in accordance with this Schedule on the one hand, and a provision of this Law or any Ordinance or subordinate legislation made under this Law on the other hand, the Law, Ordinance or (as the case may be) subordinate legislation prevails.

6.   **Interpretation of this Schedule**.

In this Schedule, unless the context requires otherwise –

　　　"**collective agreement**" means any agreement or arrangement made by or on behalf of a trade union and an employer or employers' association and relating to any of the following matters –

(a)   terms and conditions of employment, or the physical conditions in which employees are required to work,

(b)   engagement or non-engagement, or termination or suspension of employment or the duties of employment, of any employee,

(c)   allocation of work or the duties of employment as between employees or groups of employees,

(d)   matters of discipline,

(e)   the membership or non-membership of trade unions on the part of an employee,

(f)   facilities for officials of trade unions, and

(g)   machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of any such procedures,

　　　"**collective bargaining**" means negotiations relating to or connected with any of the matters specified in the definition of the expression "collective agreement",

　　　"**contract**" includes any agreement, transaction, arrangement or understanding, whether or not conditional or in writing and governed by the law of the Bailiwick or any part thereof,

　　　"**contract of employment**" means any agreement,

Provision or part amended	Amendment
	whether express or implied and whether written or oral, between an employee and the employee's employer, determining the terms and conditions of the employment of the employee, "**employee**" means an individual who has entered into or who works under a contract of service or apprenticeship (whether express or implied and whether written or oral), but does not include an individual engaged under a contract for services or on a consultancy or secondment basis, and cognate expressions shall be construed accordingly, "**employers' association**" has the meaning given by section 34 of the Employment Protection (Guernsey) Law, 1998, "**independent trade union**" has the meaning given by section 34 of the Employment Protection (Guernsey) Law, 1998, "**liability**" includes a debt, a duty and an obligation of any description (whether present or future, actual, contingent or prospective), "**occupational pension scheme**" means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category, "**recognised**", in relation to a trade union, means recognised to any extent by an employer, or two or more associated employers (within the meaning of section 34 of the Employment Protection (Guernsey) Law, 1998), for the purpose of collective bargaining, "**trade union**" has the meaning given by section 34 of the Employment Protection (Guernsey) Law, 1998, and "**working conditions**" includes terms and conditions of employment and physical working conditions.".
Paragraph 19 of Schedule 8	Renumber this paragraph "19(1)". In the new subparagraph (1)(b), for "paragraph", substitute "item".

Provision or part amended	Amendment
	Immediately after the new subparagraph (1), insert the following subparagraph – "(2) The modifications, exceptions and exemptions provided for by regulations under subparagraph (1) may be in addition to, or in substitution of, any modifications, exceptions or exemptions specified in this Schedule before those regulations are made.".
Paragraph 20 of Schedule 8	In the definition of "**a provision of Part III**", for paragraph (b), substitute – "(b) any provision of section 6 of this Law corresponding to a right or duty in Part III of this Law,". In the definition of "**designated provision**", for paragraphs (b) and (c), substitute – "(b) any provision of section 6 of this Law corresponding to a right or duty in Part III of this Law, or (c) section 43 of this Law,".
Schedule 10	In that table in this schedule, insert each of the following rows in the appropriate alphabetical order – <table><tr><td>Approval date</td><td>Section 108(8)</td></tr><tr><td>The Constable</td><td>Paragraph 3(3) of Schedule 1</td></tr><tr><td>Criminal proceeds enactment</td><td>Section 111(1)</td></tr><tr><td>The former Commissioner</td><td>Section 60A(4)</td></tr><tr><td>Employee</td><td>Section 111(1)</td></tr><tr><td>e-Privacy Ordinance</td><td>Section 17(6)</td></tr><tr><td>Relevant date</td><td>Section 109(8)</td></tr><tr><td>Tribunal</td><td>Section 111(1)</td></tr></table>

Section 21

CONSEQUENTIAL AMENDMENTS TO E-PRIVACY ORDINANCES

Amendments to the European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004

Provision or part amended	Amendment
Section 2	For "Data Protection (Bailiwick of Guernsey) Law, 2001", substitute "Data Protection (Bailiwick of Guernsey) Law, 2017, including any Ordinance or regulation made under it,".
Section 24	Immediately after subsection (7), insert – "(7A) The Royal Court's power under this section to make rules includes power to vary or revoke any such rules by subsequent rules. (7B) Any rules made by the Royal Court under this section may– (a) make different provision for different cases, and (b) make such supplemental, incidental, consequential or transitional provision or savings as the Royal Court considers appropriate.".
Section 24(8)	In paragraph (a) – (a) For "(8), (9), (10), (11), (12) and (13) of section 28 of", substitute "paragraph 18(9), (10) and (11) of Schedule 8 to", and (b) for "section 28 of that Law", substitute "paragraph 18 of Schedule 8 to that Law; and for the purposes of this subsection "Royal Court" has the meaning given by section 111(1) of that Law". In paragraph (b), for "58", substitute "100A". Repeal paragraph (c).
Section 27	For subsection (1), substitute – "(1) The provisions of the Data Protection Law specified in the left-hand column of Schedule 1 are extended for the purposes of this Ordinance and, for those purposes have effect subject to the modifications set out in the right-hand column of that schedule.". In subsection (2), for "Commissioner", substitute "Authority".
Section 28	In paragraph (b), for "Authority", substitute "Guernsey Competition and

Provision or part amended	Amendment
	Regulatory Authority". For "Data Protection Commissioner" or "Commissioner" in each place it occurs (including the heading of this section), substitute "Data Protection Authority". For "his" or "he" in each place either expression occurs (including the heading of this section), substitute "its" and "it" respectively.
Section 29	For "Authority", substitute "Guernsey Competition and Regulatory Authority". For "Data Protection Commissioner" or "Commissioner" in each place it occurs (including the heading of this section), substitute "Data Protection Authority". For "his", substitute "its".
Section 31(1)	Repeal the definition of "**the Commissioner**". In the definition of "**Data Protection Law**", for "2001", substitute "2017". In the appropriate alphabetical order, insert – " "**Data Protection Authority**" means the Data Protection Authority established by the Data Protection Law,".
Schedule 1	Repeal this schedule and substitute in its place – "SCHEDULE 1 Section 27 EXTENSION OF PROVISIONS OF THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2017 SUBJECT TO MODIFICATIONS, FOR THE PURPOSES OF THIS ORDINANCE <table><tr><th>Provision of the Data Protection (Bailiwick of Guernsey) Law, 2017</th><th>Modifications</th></tr><tr><td>Section 69</td><td>For "controller or processor" in each place it occurs, substitute "person". For "operative provision" in each place it occurs, substitute "e-Privacy requirement". In subsection (1), for "this Law",</td></tr></table>

Provision or part amended	Amendment	
		substitute "the 2004 Ordinance".
	Section 70	-
	Section 72	Omit paragraph (a) of subsection (1).
		For "controller or processor" in each place it occurs, substitute "person".
		For "operative provision" in each place it occurs, substitute "e-Privacy requirement".
	Section 73(1)	For "operative provision", substitute "e-Privacy requirement".
	Section 73(2)(a), (e)(i) and (ii)	For "operative provision", substitute "e-Privacy requirement".
		For "this Law", substitute "the 2004 Ordinance".
	Section 73(4), (5), (6), (7A) and (8)	-
	Section 74(2)(a) to (j)	Extended only for the purposes of section 73(7A), as extended above.
	Sections 76(1) to (5), 77, 81, 84, 88(1), (2)(d) and (e) and items (i) to (iv) and (3), 89, 90	-
	Section 91	Immediately after "this Law" in each place it occurs, insert "or the 2004 Ordinance".
	Sections 92, 93, 94 and 95	-
	Section 111 (any definition necessary to give meaning to any of the provisions of the Data Protection (Bailiwick of Guernsey) Law, 2017 extended above)	Extended to the extent necessary to give meaning to those provisions extended above. This extension is subject to the following modifications – (a) for "controller or processor" in each place it occurs, substitute "person", (b) for "operative provision" in each place it occurs, substitute "e-Privacy requirement",

Provision or part amended	Amendment	

		(c) in the definition of "**breach determination**", omit "section 71(1)(a)",
		 (d) for the definition of "**this Law**", substitute –
		   " "**this Law**" means this Law as extended for the purposes of the 2004 Ordinance and includes any Ordinance or regulations made under or for the purposes of this Law as so extended,",
		 (e) in the definition of "**privileged items**", in paragraph (b), for "this Law", substitute "this Law or the 2004 Ordinance", and
		 (f) insert in the appropriate alphabetical order the following definitions –
		   " "**the 2004 Ordinance**" means the European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004", and
		   " "**e-Privacy requirement**" means any requirement of the 2004 Ordinance,".

	Schedule 7	For "controller or processor" in each place it occurs, substitute "person". For "operative provision" in each place it occurs, substitute "e-Privacy requirement".
		In paragraph 1(2) – (a) in item (a), omit "investigate a complaint,", and (b) in item (b), omit "investigation or".".

Amendments to the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009

Provision or part amended	Amendment
Section 2	For "Data Protection (Bailiwick of Guernsey) Law, 2001", substitute "Data Protection (Bailiwick of Guernsey) Law, 2017, including any Ordinance or regulation made under it,".
Section 24	Immediately after subsection (7), insert – "(7A) The Royal Court's power under this section to make rules includes power to vary or revoke any such rules by subsequent rules. (7B) Any rules made by the Royal Court under this section may– (a) make different provision for different cases, and (b) make such supplemental, incidental, consequential or transitional provision or savings as the Royal Court considers appropriate.".
Section 24(8)	In paragraph (a) – (a) For "(8), (9), (10), (11), (12) and (13) of section 28 of", substitute "paragraph 18(9), (10) and (11) of Schedule 8 to", and (b) for "section 28 of that Law", substitute "paragraph 18 of Schedule 8 to that Law; and for the purposes of this subsection "Royal Court" has the meaning given by section 111(1) of that Law". In paragraph (b), for "58", substitute "100A". Repeal paragraph (c).
Section 27	For subsection (1), substitute – "(1) The provisions of the Data Protection Law specified in the left-hand column of Schedule 1 are extended for the purposes of this Ordinance and, for those purposes have effect subject to the modifications set out in the right-hand column of that schedule.". In subsection (2), for "Commissioner", substitute "Authority".
Section 28	In paragraph (b), for "Authority", substitute "Guernsey Competition and Regulatory Authority". For "Data Protection Commissioner" or "Commissioner" in each place it occurs (including the heading of this section), substitute "Data Protection Authority".

Provision or part amended	Amendment
	For "his" or "he" in each place either expression occurs (including the heading of this section), substitute "its" and "it" respectively.
Section 29	For "Authority", substitute "Guernsey Competition and Regulatory Authority". For "Data Protection Commissioner" or "Commissioner" in each place it occurs (including the heading of this section), substitute "Data Protection Authority". For "his", substitute "its".
Section 31(1)	Repeal the definition of "**the Commissioner**". In the definition of "**Data Protection Law**", for "2001", substitute "2017". In the appropriate alphabetical order, insert – " "**Data Protection Authority**" means the Data Protection Authority established by the Data Protection Law,".
Schedule 1	Repeal this schedule and substitute in its place – "SCHEDULE 1 Section 27 EXTENSION OF PROVISIONS OF THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2017 SUBJECT TO MODIFICATIONS, FOR THE PURPOSES OF THIS ORDINANCE <table><tr><th>Provision of the Data Protection (Bailiwick of Guernsey) Law, 2017</th><th>Modifications</th></tr><tr><td>Section 69</td><td>For "controller or processor" in each place it occurs, substitute "person". For "operative provision" in each place it occurs, substitute "e-Privacy requirement". In subsection (1), for "this Law", substitute "the 2009 Ordinance".</td></tr><tr><td>Section 70</td><td>-</td></tr><tr><td>Section 72</td><td>Omit paragraph (a) of subsection (1).</td></tr></table>

Provision or part amended	Amendment	
		For "controller or processor" in each place it occurs, substitute "person".
		For "operative provision" in each place it occurs, substitute "e-Privacy requirement".
	Section 73(1)	For "operative provision", substitute "e-Privacy requirement".
	Section 73(2)(a), (e)(i) and (ii)	For "operative provision", substitute "e-Privacy requirement". For "this Law", substitute "the 2009 Ordinance".
	Section 73(4), (5), (6), (7A) and (8)	-
	Section 74(2)(a) to (j)	Extended only for the purposes of section 73(7A), as extended above.
	Sections 76(1) to (5), 77, 81, 84, 88(1), (2)(d) and (e) and items (i) to (iv) and (3), 89, 90	-
	Section 91	Immediately after "this Law" in each place it occurs, insert "or the 2009 Ordinance".
	Sections 92, 93, 94 and 95	-
	Section 111 (any definition necessary to give meaning to any of the provisions of the Data Protection (Bailiwick of Guernsey) Law, 2017 extended above)	Extended to the extent necessary to give meaning to those provisions extended above. This extension is subject to the following modifications – (a) for "controller or processor" in each place it occurs, substitute "person", (b) for "operative provision" in each place it occurs, substitute "e-Privacy requirement", (c) in the definition of "**breach determination**", omit "section 71(1)(a)", (d) for the definition of "**this Law**",

Provision or part amended	Amendment	
		substitute – " "**this Law**" means this Law as extended for the purposes of the 2009 Ordinance and includes any Ordinance or regulations made under or for the purposes of this Law as so extended,", (e) in the definition of "**privileged items**", in paragraph (b), for "this Law", substitute "this Law or the 2009 Ordinance", and (f) insert in the appropriate alphabetical order the following definitions – " "**the 2009 Ordinance**" means the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009,", and " "**e-Privacy requirement**" means any requirement of the 2009 Ordinance,".
	Schedule 7	For "controller or processor" in each place it occurs, substitute "person". For "operative provision" in each place it occurs, substitute "e-Privacy requirement".
		In paragraph 1(2) – (a) in item (a), omit "investigate a complaint,", and (b) in item (b), omit "investigation or".".

Amendments to the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Sark) Ordinance, 2004

Provision or part amended	Amendment
Section 2	For "Data Protection (Bailiwick of Guernsey) Law, 2001", substitute "Data Protection (Bailiwick of Guernsey) Law, 2017, including any Ordinance or regulation made under it,".
Section 24	Immediately after subsection (7), insert – "(7A) The Royal Court's power under this section to make rules includes power to vary or revoke any such rules by subsequent rules. (7B) Any rules made by the Royal Court under this section may– (a) make different provision for different cases, and (b) make such supplemental, incidental, consequential or transitional provision or savings as the Royal Court considers appropriate.".
Section 24(8)	In paragraph (a) – (a) For "(8), (9), (10), (11), (12) and (13) of section 28 of", substitute "paragraph 18(9), (10) and (11) of Schedule 8 to", and (b) for "section 28 of that Law", substitute "paragraph 18 of Schedule 8 to that Law; and for the purposes of this subsection "Royal Court" has the meaning given by section 111(1) of that Law". In paragraph (b), referring to section 58 of the Data Protection Law, for "58", substitute "100A". Repeal paragraph (c) (mistakenly numbered as paragraph (b)), referring to section 66 of the Data Protection Law.
Section 27	For subsection (1), substitute – "(1) The provisions of the Data Protection Law specified in the left-hand column of Schedule 1 are extended for the purposes of this Ordinance and, for those purposes have effect subject to the modifications set out in the right-hand column of that schedule.". In subsection (2), for "Commissioner", substitute "Authority".
Section 28	In paragraph (b), for "Authority", substitute "Guernsey Competition and Regulatory Authority". For "Data Protection Commissioner" or "Commissioner" in each place it occurs (including the heading of this section), substitute "Data Protection Authority".

Provision or part amended	Amendment
	For "his" or "he" in each place either expression occurs (including the heading of this section), substitute "its" and "it" respectively.
Section 29	For "Authority", substitute "Guernsey Competition and Regulatory Authority". For "Data Protection Commissioner" or "Commissioner" in each place it occurs (including the heading of this section), substitute "Data Protection Authority". For "his", substitute "its".
Section 31(1)	Repeal the definition of "**the Commissioner**". In the definition of "**Data Protection Law**", for "2001", substitute "2017". In the appropriate alphabetical order, insert – 　　" "**Data Protection Authority**" means the Data Protection Authority established by the Data Protection Law,".
Schedule 1	Repeal this schedule and substitute in its place – 　　　　　　"SCHEDULE 1　　　　　　　Section 27 EXTENSION OF PROVISIONS OF THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2017 SUBJECT TO MODIFICATIONS, FOR THE PURPOSES OF THIS ORDINANCE table below

Provision of the Data Protection (Bailiwick of Guernsey) Law, 2017	Modifications
Section 69	For "controller or processor" in each place it occurs, substitute "person". For "operative provision" in each place it occurs, substitute "e-Privacy requirement". In subsection (1), for "this Law", substitute "the 2004 Ordinance".
Section 70	-
Section 72	Omit paragraph (a) of subsection (1).

Provision or part amended	Amendment	
		For "controller or processor" in each place it occurs, substitute "person".
		For "operative provision" in each place it occurs, substitute "e-Privacy requirement".
	Section 73(1)	For "operative provision", substitute "e-Privacy requirement".
	Section 73(2)(a), (e)(i) and (ii)	For "operative provision", substitute "e-Privacy requirement".
		For "this Law", substitute "the 2004 Ordinance".
	Section 73(4), (5), (6), (7A) and (8)	-
	Section 74(2)(a) to (j)	Extended only for the purposes of section 73(7A), as extended above.
	Sections 76(1) to (5), 77, 81, 84, 88(1), (2)(d) and (e) and items (i) to (iv) and (3), 89, 90	-
	Section 91	Immediately after "this Law" in each place it occurs, insert "or the 2004 Ordinance".
	Sections 92, 93, 94 and 95	-
	Section 111 (any definition necessary to give meaning to any of the provisions of the Data Protection (Bailiwick of Guernsey) Law, 2017 extended above)	Extended to the extent necessary to give meaning to those provisions extended above. This extension is subject to the following modifications – (a) for "controller or processor" in each place it occurs, substitute "person", (b) for "operative provision" in each place it occurs, substitute "e-Privacy requirement", (c) in the definition of "**breach determination**", omit "section 71(1)(a)",

Provision or part amended	Amendment	
		(d) for the definition of "**this Law**", substitute – " "**this Law**" means this Law as extended for the purposes of the 2004 Ordinance and includes any Ordinance or regulations made under or for the purposes of this Law as so extended,", (e) in the definition of "**privileged items**", in paragraph (b), for "this Law", substitute "this Law or the 2004 Ordinance", and (f) insert in the appropriate alphabetical order the following definitions – " "**the 2004 Ordinance**" means the European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Sark) Ordinance, 2004,", and " "**e-Privacy requirement**" means any requirement of the 2004 Ordinance,".
	Schedule 7	For "controller or processor" in each place it occurs, substitute "person". For "operative provision" in each place it occurs, substitute "e-Privacy requirement".
		In paragraph 1(2) – (a) in item (a), omit "investigate a complaint,", and (b) in item (b), omit "investigation or".".