

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 20 of 2018

THE DATA PROTECTION (INTERNATIONAL COOPERATION AND ASSISTANCE) (BAILIWICK OF GUERNSEY) REGULATIONS, 2018

In pursuance of sections 66 and 109 of the Data Protection (Bailiwick of Guernsey) Law, 2017, The Data Protection (International Cooperation and Assistance) (Bailiwick of Guernsey) Regulations, 2018, made by the Committee for Home Affairs on 18th May 2018, is laid before the States.

EXPLANATORY NOTE

These Regulations are made under the Data Protection (Bailiwick of Guernsey) Law, 2017 ("**the Law**"). These Regulations confer additional functions on the Authority in relation to international co-operation and international mutual assistance, in connection with the GDPR and the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981).

Regulation 1 requires the Authority to have particular regard to articles 60 (cooperation between the lead supervisory authority and the other supervisory authorities concerned), 61 (mutual assistance) and 62 (joint operations of supervisory authorities) of the GDPR when performing its functions under section 65 of the Data Protection Law. So far as appropriate and consistent with its other functions under the Law, the Authority is required to act in a manner consistent with those provisions of the GDPR.

Regulation 2 requires the Authority, on request by a foreign supervisory authority, to provide that foreign supervisory authority with information on the Law and the Authority's administrative practices, as well as to take steps to obtain factual information relating to any processing of personal data carried out in the Bailiwick. The Authority is authorised to make a similar request to a foreign supervisory authority.

Regulation 3 requires the Authority, on request by an individual who is not a Bailiwick resident, to assist the individual to exercise a right protected by the Convention or a data subject right under the Law against a controller established in the Bailiwick.

Regulation 4 requires the Authority, on request by a Bailiwick resident, to assist that resident to exercise, in a country outside the Bailiwick, a right protected by the Convention, a data subject right under the Law or a right conferred by the GDPR or required to be conferred by the Law Enforcement Directive. In this case, the Authority is required to submit the request to the supervisory authority of the country concerned.

Regulation 5 prohibits the Authority from using any information provided by a foreign supervisory authority as a result of a request made by or to the Authority under these Regulations for any purpose other than the purpose specified in the request.

Regulation 6 sets out the interpretation provisions. Regulations 7 and 8 are the citation and commencement provisions, respectively.

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

No. 21 of 2018

**THE DATA PROTECTION (GENERAL PROVISIONS) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2018**

In pursuance of 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, 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, The Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018, made by the Committee *for* Home Affairs on 18th May 2018, is laid before the States.

EXPLANATORY NOTE

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.

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.

No. 24 of 2018

THE INCOME SUPPORT (GUERNSEY) LAW, 2017 (COMMENCEMENT) REGULATIONS, 2018

In pursuance of section 9 of the Income Support (Guernsey) Law, 2017, The Income Support (Guernsey) Law, 2017 (Commencement) Regulations, 2018, made by the Committee *for* Employment & Social Security on 12th June, 2018, are laid before the States.

EXPLANATORY NOTE

These Regulations commence the Income Support (Guernsey) law, 2018 (Income Support Law) from 6th July, 2018.

The Income Support Law gives effect to the change of name of supplementary benefit to income support by changing the titles and citation clauses of the relevant legislation and substituting all other references supplementary benefit to income support.

These Regulations will come into force on the 6th July, 2018.

No. 25 of 2018

THE STATES HOUSING (RENT AND REBATE SCHEME) (GUERNSEY) (AMENDMENT) REGULATIONS, 2018

In pursuance of sections 3 and 5 of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2018, made by the Committee *for* Employment & Social Security on 12th June, 2018, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 ("2005 Regulations") to provide for a new rent rebate scheme. The new scheme is a transitional one providing for payments of rent rebate to those States Housing

tenants most detrimentally affected by the phasing out of rent rebate, for a maximum of 3 years up to 1st July 2021, with interim phased reductions of rebate. Regulations 2 to 4 largely substitute the current provisions relating to applications for rent rebate, eligibility for the same and the amount of rebate to which a tenant is entitled.

As rent rebate is being phased out, there is no provision for new applications for rebate so that the application provisions apply only to those applications for rent rebate which have been made (but not finally determined) when these Regulations come into force (see the provisions inserted by regulations 2 and 3). However, tenants who have not applied for rent rebate by that date may make a claim for income support (former supplementary benefit). Conditions for eligibility for rent rebate are changed so that only those States Housing tenants who will receive less income support than the previous supplementary benefit and rent rebate (the benefit changes) may be eligible for rent rebate. In addition, the tenant and any partner living in their household must meet work requirements under Income Support legislation to be eligible irrespective of whether or not the tenant is claiming income support (see new regulation 5 inserted by regulation 4).

The amount of weekly rent rebate to which a tenant is entitled is based on the amount by which the tenant is detrimentally affected by the benefit changes, applied to their circumstances when these Regulations come into force on 6th July, 2018 and determined in accordance with the rent rebate formula set out in the new Schedule 3 (see the new Regulation 6 inserted by regulation 4 and Part I of the Schedule to these Regulations).

There is a duty to review the amount of rent rebate to which a tenant is entitled if any of the events set out in new inserted regulation 6A(1) occur; these events are significant changes which may affect financial and other relevant circumstances. There is also a power for the amount of rent rebate to be reviewed in specified circumstances (inserted regulation 6A(2)). The amount of weekly rent rebate to which a tenant is entitled on a review is determined on the same basis as the original determination or a previous review except that it is based on the tenant's circumstances as at the date of the relevant change of circumstances to which the review relates (see inserted regulation 6A(3) and Part II of the Schedule to these Regulations).

These Regulations also make consequential and minor amendments to other parts of the 2005 Regulations (see regulations 5 to 11).

These Regulations come into force on the 6th day of July, 2018.

Corrected Version of Explanatory Note on 16.7.18

No. 26 of 2018

WASTE DISPOSAL AND RECOVERY CHARGES REGULATIONS, 2018

In pursuance of Section 32(3)(c) and (4) and section 72 of the Environmental Pollution (Guernsey) Law, 2004 and all other powers enabling it in that behalf, the Waste Disposal and Recovery Charges Regulations, 2018, made by the Waste Disposal Authority on 21st June 2018, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges, or rates of charge, payable from 2nd September 2018 as a pre-condition of the acceptance of waste of particular descriptions by the Waste Disposal Authority for disposal or recovery at specified public waste management sites (see Table 1 in Schedule 1). They also set out charges in 2018 for the reloading of waste which is not accepted at specified public waste management sites (see Table 2 in Schedule 1).

The main changes from the previous Waste Disposal and Recovery Charges Regulations, 2017 are to amend Schedule 1 (which sets out the rates of charge) to add categories for the new public waste management facilities at Longue Hougue and new categories of charge for food waste and glass waste and to amend Schedule 2 to add categories of recyclable waste for which higher charges are payable when delivered to site as part of a mixed load rather than segregated for recycling.

These Regulations and the new charges or rates of charge come into force on 2nd September, 2018.

No. 27 of 2018

THE ELECTORAL SYSTEM REFERENDUM (AVAILABILITY OF ELECTORAL ROLL) REGULATIONS, 2018

In pursuance of section 30(1)(c) of the Electoral System Referendum (Guernsey) Law, 2018, the Electoral System Referendum (Availability of Electoral Roll) Regulations, 2018, made by the States' Assembly & Constitution Committee on 22nd June, 2018, are laid before the States.

EXPLANATORY NOTE

These Regulations provide for copies of the Electoral Roll to be available to campaign groups appointed under the Electoral System Referendum (Guernsey) Law, 2018, in the same way as a copy of the Roll is available to candidates in an election. It also places restrictions on the use of a copy of the Roll so provided.

These Regulations came into force on 22nd June, 2018.

The full text of the statutory instruments and other legislation included in this document can be found at: <http://www.guernseylegalresources.gg/article/163343/2018>