



Jersey

# **DATA PROTECTION (REGISTRATION AND CHARGES) (JERSEY) REGULATIONS 2018**

## **Official Consolidated Version**

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## **DATA PROTECTION (REGISTRATION AND CHARGES) (JERSEY) REGULATIONS 2018**

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## DATA PROTECTION (REGISTRATION AND CHARGES) (JERSEY) REGULATIONS 2018

THE STATES, in pursuance of Articles 18 and 46 of the [Data Protection Authority \(Jersey\) Law 2018](#), have made the following Regulations –

Commencement [[see endnotes](#)]

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### 1 Interpretation<sup>1</sup>

In these Regulations –

“Law” means the [Data Protection Authority \(Jersey\) Law 2018](#);

“payer” means a registered controller or registered processor who is required to pay an annual charge under Regulation 6;

“past-year revenues” means a payer’s gross revenues that are generated by or on behalf of that part of the payer’s business that is established in Jersey for the year before the year to which an annual charge relates;

“register” means a register of controllers and processors who are required to register under Article 17 of the Law;

“registration period” has the same meaning as in paragraph 2 of Schedule 2 to the Law;

“year” means a calendar year.

### 2 Particulars in register

The Authority may include the following particulars in an entry in a register –

- (a) whether the entry is in respect of a controller or processor or both;
- (b) a registration number issued by the Authority in respect of the entry;
- (c) the date on which the entry is treated as having been included in the register;
- (d) information that may assist persons consulting the register to contact any controller to whom the entry relates about the processing of personal data;
- (e) such further information as the Authority considers necessary or expedient for the purposes of fulfilling its functions under the Law.

### 3 Notification of registration

The Authority must, as soon as practicable and in any event within 28 days of making, amending or removing an entry in a register, notify the controller or processor to whom the entry relates –

- (a) of the making or amending of the entry, the date of that entry or amendment and the particulars currently included within the entry; or
  - (b) of the removal of the entry,
- as the case may be.

### 4 Requirement to notify changes to particulars

(1) Registered controllers and registered processors must notify the Authority of any change in the particulars that they were required to provide to the Authority in respect of their application for registration as soon as practicable and in any event within 28 days of the change.

(2) <sup>2</sup>

5 <sup>3</sup>

### 6 Requirement to pay annual charge<sup>4</sup>

(1) Every registered controller and registered processor must pay an annual charge to the Authority for each calendar year or part of a calendar year in which the controller or processor is registered, the amount of which is to be calculated in accordance with Regulations 6A and 6B.

(2) An annual charge falls due on 1st January of the year to which the charge relates and must be paid by the last day of the following month.

(3) However, if the controller or processor becomes registered during the course of a year the annual charge falls due one month after registration.

(4) A registered controller or registered processor is exempt from paying the annual charge if –

- (a) the only processing carried out by the controller or processor falls within any of the classes of processing set out in the Schedule; and
- (b) no further disclosure relating to that processing is made other than –
  - (i) as required by law, including by order of a court, or
  - (ii) as permitted by Article 64 of the Data Protection Law (permitted processing for law enforcement, legal proceedings and public records purposes).

#### 6A Annual charge: calculation of amount<sup>5</sup>

(1) The amount of a payer's annual charge is the sum of the applicable base amount set out in paragraph (2) and every additional amount set out in any of paragraphs (3), (4) and (5) that applies in the circumstances.

(2) The base amount that must be paid by a payer is –

- (a) £70, if the payer has fewer than 10 full-time equivalent employees;

- (b) £90, if the payer has at least 10, but not more than 50, full-time equivalent employees; or
  - (c) £500, if the payer has more than 50 full-time equivalent employees.
- (3) A payer who has past-year revenues of more than £5 million must also pay –
  - (a) £150, if those revenues are £20 million or less; or
  - (b) £500, if those revenues are more than £20 million.
- (4) A payer who is registered with the Jersey Financial Services Commission and is carrying on a financial services business as specified in Schedule 2 to the [Proceeds of Crime \(Jersey\) Law 1999](#) (other than in paragraphs 6, 8 and 10 of Part B) must also pay –
  - (a) £50, if the payer has fewer than 10 full-time equivalent employees;
  - (b) £150, if the payer has at least 10, but not more than 50, full-time equivalent employees; or
  - (c) £600, if the payer has more than 50 full-time equivalent employees.
- (5) A payer to whom paragraph (6) applies must also pay –
  - (a) £50, if the payer has fewer than 10 full-time equivalent employees;
  - (b) £150, if the payer has at least 10, but not more than 50, full-time equivalent employees; or
  - (c) £350, if the payer has more than 50 full-time equivalent employees.
- (6) This paragraph applies to any payer, other than a payer exempted from the requirement to register with the Jersey Financial Services Commission, who –
  - (a) processes special category data;
  - (b) to which paragraph (4) does not apply; and
  - (c) has past-year revenues of at least £100,000.
- (7) For the purposes of this Regulation, in determining the number of full-time equivalent (“FTE”) employees of a payer –
  - (a) a person employed for no more than 9 hours a week is treated as 25% of a FTE employee;
  - (b) a person employed for more than 9 hours but no more than 18 hours a week is treated as 50% of a FTE employee;
  - (c) a person employed for more than 18 hours but not more than 27 hours a week is treated as 75% of a FTE employee; and
  - (d) a person employed for more than 27 hours a week is treated as a FTE employee.
- (8) The determination referred to in paragraph (7) must be calculated on the basis of the highest number of posts existing at any time during the past 12 months, ignoring any vacancies.
- (9) The Authority may –
  - (a) issue guidance regarding the calculation of the number of full-time equivalent employees and whether any particular category of worker is to be treated as an employee or not; and
  - (b) make determinations on the application of paragraphs (7) and (8) to any payer.
- (10) In this Regulation, “employee” includes –

- (a) if the payer is an individual, the payer;
- (b) an office holder of the payer; and
- (c) if the payer is a partnership, an individual who is a partner.

#### **6B Exception for payer being administered by trust company businesses or fund services businesses<sup>6</sup>**

- (1) In this Regulation, “trust company business” and “fund services business” have the same meanings as in Article 1(1) of the [Financial Services \(Jersey\) Law 1998](#).
- (2) Despite Regulation 6A, the amount of the annual charge for a registered controller or registered processor that is being administered by a trust company business or a fund services business is £50.
- (3) A registered controller or registered processor referred to in paragraph (2) is not eligible under Regulation 6(4) for an exemption from paying the annual charge.

#### **6C Information requirement<sup>7</sup>**

- (1) When paying an annual charge to the Authority, a payer must provide the Authority with sufficient information to identify the payer and substantiate that the amount of the payment is correct, including, where relevant, information on –
  - (a) the number of the payer’s full-time equivalent employees, as determined under Regulation 6A(7) and (8);
  - (b) the payer’s past-year revenues;
  - (c) whether the payer is registered with the Jersey Financial Services Commission;
  - (d) whether the payer processes special category data; and
  - (e) in the case of a payer falling within Regulation 6B, the name of the trust company business or fund services business by which the payer is administered.
- (2) A payer must provide the Authority with any additional information requested by the Authority that relates to the calculation of the payer’s annual charge.

#### **7 Power to remove entry in register<sup>8</sup>**

The Authority may remove an entry in a register where the controller or processor relating to that entry –

- (a) fails to comply with Regulation 4;
- (b) fails to pay the charge as required by Regulation 6;
- (c) fails to provide sufficient information as required by Regulation 6C; or
- (d) provides information under Regulation 6C that, in any material way, is false, misleading or incomplete.

#### **8 Citation**

These Regulations may be cited as the Data Protection (Registration and Charges) (Jersey) Regulations 2018.



## SCHEDULE<sup>9</sup>

(Regulation 6(2))

### CLASSES OF PROCESSING ATTRACTING EXEMPTION FROM CHARGES

#### 1 Public authorities

Processing that is carried out by a registered controller who is a public authority.

#### 1A Candidates for election

Processing that –

- (a) is carried out by a registered controller who has become a candidate for a public election of an officer in a constituency under Article 17H of the [Elections \(Jersey\) Law 2002](#) or been admitted as a candidate for a parish election of an officer in a constituency under Article 18 of that Law;
- (b) is for the purpose of the contesting of the election by the registered controller;
- (c) does not involve disclosure of the personal data to a third party otherwise than –
  - (i) with the consent of the data subject, or
  - (ii) in a case where it is necessary to make such disclosure for that purpose; and
- (d) does not involve keeping the personal data after it is no longer necessary for the purpose of contesting that election.

#### 1B Provided schools

Processing that is carried out by a registered controller that is a provided school, as defined in Article 1(1) of the [Education \(Jersey\) Law 1999](#).

#### 2 Accounts and records after ceasing to conduct business

Processing that –

- (a) is solely for the purpose of retaining personal data as required by law after ceasing to conduct business;
- (b) is carried out by a registered controller who has ceased conducting any business or activity other than retaining the personal data; and
- (c) does not involve the disclosure of the personal data other than –
  - (i) with the consent of the data subject, or
  - (ii) in the case where the disclosure is necessary for the purpose referred to in sub-paragraph (a).

#### 3 Non-profit associations

Processing that –

- (a) is carried out by a registered controller that is a non-profit association (as described in paragraph 10(a) of Schedule 2 to the Data Protection Law);



- (b) is for any one or more of the purposes of establishing or maintaining membership of or support for the non-profit association or providing or administering activities for individuals who are either members of the association or have regular contact with it;
- (c) is of personal data in respect of which the data subject is –
  - (i) a past, existing or prospective member of the association,
  - (ii) a person who has regular contact with the association in connection with any of the purposes referred to in sub-paragraph (b), or
  - (iii) a person the processing of whose personal data is necessary for any of those purposes;
- (d) is of personal data consisting of any one or more of the following in respect of the data subject –
  - (i) name,
  - (ii) address,
  - (iii) other identifiers,
  - (iv) information as to eligibility for membership of the association,
  - (v) information as to any other matter the processing of which is necessary for any of the purposes referred to in sub-paragraph (b);
- (e) does not involve disclosure of the personal data to a third party other than –
  - (i) with the consent of the data subject, or
  - (ii) in a case where it is necessary to make the disclosure for any of those purposes; and
- (f) does not involve keeping the personal data after the relationship between the registered controller and data subject ends, except for so long as it is necessary to do so for any of those purposes.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Data Protection (Registration and Charges) (Jersey) Regulations 2018	<a href="#">R&amp;O.32/2018</a>	25 May 2018	<a href="#">P.30/2018</a>
Data Protection (Registration and Charges) (Amendment) (Jersey) Regulations 2019	<a href="#">R&amp;O.135/2019</a>	1 January 2020	<a href="#">P.114/2019</a>
Elections (Miscellaneous Amendments) (Jersey) Law 2021	<a href="#">L.19/2021</a>	20 January 2022	<a href="#">P.56/2021</a>

°Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Endnote References

<sup>1</sup> Regulation 1	<i>amended by R&amp;O.135/2019</i>
<sup>2</sup> Regulation 4(2)	<i>deleted by R&amp;O.135/2019</i>
<sup>3</sup> Regulation 5	<i>deleted by R&amp;O.135/2019</i>
<sup>4</sup> Regulation 6	<i>substituted by R&amp;O.135/2019</i>
<sup>5</sup> Regulation 6A	<i>inserted by R&amp;O.135/2019</i>
<sup>6</sup> Regulation 6B	<i>inserted by R&amp;O.135/2019</i>
<sup>7</sup> Regulation 6C	<i>inserted by R&amp;O.135/2019</i>
<sup>8</sup> Regulation 7	<i>amended by R&amp;O.135/2019</i>
<sup>9</sup> Schedule	<i>amended by R&amp;O.135/2019, L.19/2021</i>