

## The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020

*Made*

18 December, 2020

*Coming into operation*

1<sup>st</sup> January, 2021

*Laid before the States*

, 2021

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred on it by sections 37, 39, 40 and 109 of, and paragraph 1(2) of Schedule 4 to, the Data Protection (Bailiwick of Guernsey) Law, 2017<sup>a</sup>, and all other powers enabling it in that behalf, following consultation with the Data Protection Authority, the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark, hereby makes the following Regulations:-

### Amendments to the 2018 Regulations.

1. The Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018<sup>b</sup> ("the principal Regulations") are amended as follows.

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<sup>a</sup> Order in Council No. VI of 2018; as amended by Ordinance No. X of 2018; Sark Ordinance No. VIII of 2018; G.S.I. No. 21 of 2018.

<sup>b</sup> G.S.I. No. 21 of 2018; as amended by G.S.I. Nos. 69 and 115 of 2019; Nos. 2 and 92 of 2020.

2. In regulation C1 of the principal Regulations –

(a) in paragraph (1), for subparagraph (b), substitute the following subparagraph –

"(b) satisfies either –

(i) both conditions A and A1, or

(ii) condition B,"

(b) in paragraph (2), in the closing words of this paragraph, for "in the calendar year last preceding the exemption date", substitute "at any time during the calendar year in which the exemption date falls", and

(c) immediately after paragraph (2), insert the following paragraph –

"(2A) Condition A1 is that as at the exemption date –

(a) the person ("**the exemptable person**") had authorised another person ("**the agent**") in writing to act as a levy collection agent for the exemptable person for the purposes of these Regulations and the authorisation was in effect, and

(b) the agent had agreed to act as a levy collection agent for the exemptable person and the agreement was in effect."

3. In regulation D1 of the principal Regulations, delete "(1)" at the beginning of the regulation.

4. In regulation 5B(1) of the principal Regulations –

(a) immediately after "agent", insert "or an exempt person", and

(b) immediately after "processor", insert "and so registered immediately".

5. In the table in Schedule 1 to the principal Regulations, immediately after the row relating to "A levy collection agent", insert the following row –

"Any exempt person	Nil	Nil	N/A".
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**Citation.**

6. These Regulations may be cited as the Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 3) Regulations, 2020.

**Commencement**

7. These Regulations shall come into force on the 1<sup>st</sup> January, 2021.

Dated this 18 day of December, 2020



Deputy Rob Prow  
President of the Committee for Home Affairs  
For and on behalf of the Committee

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EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018 ("**the principal Regulations**").

The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020 had previously amended the principal Regulations, inserting regulations C1, D1 and 5B in, and substituting Schedule 1 to, the principal Regulations.

Regulation 2 of these Regulations amends regulation C1 (meaning of "exempt person") of the principal Regulations to qualify the exemption from registration for newly incorporated or registered incorporated companies, foundations, limited liability partnerships and limited partnerships. In order to be exempt from registration on any particular date these entities would need to have been incorporated or registered in the calendar year (January to December) in which that date falls, as well as have a levy collection agent at that time.

Regulation 3 of these Regulations corrects a typo in regulation D1 of the principal Regulations.

Regulation 4 of these Regulations amends regulation 5B of the principal Regulations to make it clear that any "exempt person" within the meaning of regulation C1 who, although exempt from registration, continues to be registered as a controller or processor in 2021 would not be required to make a return under regulation 5B.

Regulation 5 of these Regulations amends the table in Schedule 1 to the principal regulations to make it clear that any exempt person who, although exempt from registration, continues to be registered, is not required to pay the registration fee or annual levy specified in the last row of that table. However, as an exempt person is required to have arrangements in place with a levy collection agent, the exempt person may be required to pay an agreed sum to the levy collection agent under those arrangements.

These Regulations will come into force on the 1<sup>st</sup> January, 2021.

