



Jersey

DATA PROTECTION (JERSEY) LAW 1987

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DATA PROTECTION (JERSEY) LAW 1987

Arrangement

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Jersey

DATA PROTECTION (JERSEY) LAW 1987

A LAW to regulate the use of automatically processed information relating to individuals and the provision of services in respect of such information

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY

1 Interpretation

- (1) The provisions of this Article shall have effect for the interpretation of this Law.
- (2) “Data” means information recorded in a form in which it can be processed by equipment operating automatically in response to instructions given for that purpose.
- (3) “Personal data” means data consisting of information which relates to a living individual who can be identified from that information (or from that and other information in the possession of the data user), including any expression of opinion about the individual but not any indication of the intentions of the data user in respect of that individual.
- (4) “Data subject” means an individual who is the subject of personal data.
- (5) “Data user” means a person who holds data, and a person “holds” data if –
 - (a) the data form part of a collection of data processed or intended to be processed by or on behalf of that person as mentioned in paragraph (2);
 - (b) that person (either alone or jointly or in common with other persons) controls the contents and use of the data comprised in the collection; and

- (c) the data are in the form in which they have been or are intended to be processed as mentioned in sub-paragraph (a) or (though not for the time being in that form) in a form into which they have been converted after being so processed and with a view to being further so processed on a subsequent occasion.
- (6) A person carries on a “computer bureau” if the person provides other persons with services in respect of data, and the person provides such services if –
 - (a) as agent for other persons the person causes data held by them to be processed as mentioned in paragraph (2); or
 - (b) the person allows other persons the use of equipment in the person’s possession for the processing as mentioned in that paragraph of data held by them.
- (7) “Processing”, in relation to data, means amending, augmenting, deleting or re-arranging the data or extracting the information constituting the data and, in the case of personal data, means performing any of those operations by reference to the data subject.
- (8) Paragraph (7) shall not be construed as applying to any operation performed only for the purpose of preparing the text of documents.
- (9) “Disclosing”, in relation to data, includes disclosing information extracted from the data; and where the identification of the individual who is the subject of personal data depends partly on the information constituting the data and partly on other information in the possession of the data user, the data shall not be regarded as disclosed or transferred unless the other information is also disclosed or transferred.
- (10) Subject to paragraph (12), references in this Law to the data protection principles are to the principles set out in Part 1 of Schedule 1, and those principles shall be interpreted in accordance with Part 2 of that Schedule.
- (11) The first 7 principles apply to personal data held by data users and the eighth applies both to such data and to personal data in respect of which services are provided by persons carrying on computer bureaux.
- (12) The States may by Regulations modify or supplement those principles for the purpose of providing additional safeguards in relation to personal data consisting of information as to –
 - (a) the racial origin of the data subject;
 - (b) the data subject’s political opinions or religious or other beliefs;
 - (c) the data subject’s physical or mental health or the data subject’s sexual life; or
 - (d) the data subject’s criminal convictions,and references in this Law to the data protection principles include, except where the context otherwise requires, references to any modified or additional principle having effect by virtue of Regulations under this paragraph.
- (13) Regulations under paragraph (12) may modify a principle either by modifying the principle itself or by modifying its interpretation; and where Regulations under that paragraph modify a principle or provide for

an additional principle they may contain provisions for the interpretation of the modified or additional principle.

- (14) Regulations under paragraph (12) modifying the third data protection principle may, to such extent as the States think appropriate, exclude or modify in relation to that principle any exemption from the non-disclosure provisions contained in Part 4; and the exemptions from those provisions contained in that Part shall accordingly have effect subject to any Regulations made by virtue of this paragraph.

- (15) Regulations under paragraph (12) may make different provision in relation to data consisting of information of different descriptions.

- (16) In this Law, unless the context otherwise requires –

“business” includes any trade or profession;

“Committee” means the Finance and Economics Committee;

“data equipment” means equipment for the automatic processing of data or for recording information so that it can be automatically processed;

“data material” means any document or other material used in connection with data equipment;

“de-registration notice” means a notice under Article 10;

“enactment” includes an enactment passed after this Law;

“enforcement notice” means a notice under Article 9;

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

“prescribed” means prescribed by Orders made by the Committee;

“register”, except where the reference is to the register of companies, means the register maintained under Article 3 and (except where the reference is to a registered company, to the registered office of a company or to registered post) references to registration shall be construed accordingly;

“registered company” means a company registered under the enactments relating to companies for the time being in force in Jersey;

“Registrar” means the Data Protection Registrar;

“Royal Court” means the Inferior Number of the Royal Court;

“transfer prohibition notice” means a notice under Article 11;

“Tribunal” means the Data Protection Tribunal.

2 The Registrar and the Tribunal

- (1) For the purpose of this Law there shall be –

- (a) an officer known as the Data Protection Registrar (in this Law referred to as the “Registrar”);

- (b) a Tribunal known as the Data Protection Tribunal (in this Law referred to as the “Tribunal”).
- (2) Schedule 2 shall have effect in relation to the Registrar and the Tribunal.

PART 2

REGISTRATION AND SUPERVISION OF DATA USERS AND COMPUTER BUREAUX

3 Registration of data users and computer bureaux

- (1) The Registrar shall maintain a register of data users who hold, and of persons carrying on computer bureaux who provide services in respect of, personal data and shall make an entry in the register in pursuance of each application for registration accepted by the Registrar under this Part.
- (2) Each entry shall state whether it is in respect of a data user, of a person carrying on a computer bureau or of a data user who also carries on such a bureau.
- (3) Subject to the provisions of this Article, an entry in respect of a data user shall consist of the following particulars –
 - (a) the name and address of the data user;
 - (b) a description of the personal data to be held by the data user and of the purpose or purposes for which the data are to be held or used;
 - (c) a description of the source or sources from which the data user intends or may wish to obtain the data or the information to be contained in the data;
 - (d) a description of any person or persons to whom the data user intends or may wish to disclose the data;
 - (e) the name or a description of any countries or territories outside Jersey to which the data user intends or may wish directly or indirectly to transfer the data; and
 - (f) one or more addresses for the receipt of requests from data subjects for access to the data.
- (4) Subject to the provisions of this Article, an entry in respect of a person carrying on a computer bureau shall consist of that person’s name and address.
- (5) Subject to the provisions of this Article, an entry in respect of a data user who also carries on a computer bureau shall consist of the data user’s name and address and, as respects the personal data to be held by the data user, the particulars specified in paragraph (3)(b) to (f).
- (6) In the case of a registered company the address referred to in paragraphs (3)(a), (4) and (5) is that of its registered office, and the particulars to be included in the entry shall include the company’s number in the register of companies.

- (7) In the case of a person (other than a registered company) carrying on a business the address referred to in paragraphs (3)(a), (4) and (5) is that of the person's principal place of business.
- (8) The Committee may by Order vary the particulars to be included in entries made in the register.

4 Prohibition of unregistered holding etc. of personal data

- (1) A person shall not hold personal data unless an entry in respect of that person as a data user, or as a data user who also carries on a computer bureau, is for the time being contained in the register.
- (2) A person in respect of whom such an entry is contained in the register shall not –
 - (a) hold personal data of any description other than that specified in the entry;
 - (b) hold any such data, or use any such data held by the person, for any purpose other than the purpose or purposes described in the entry;
 - (c) obtain such data, or information to be contained in such data, to be held by the person from any source which is not described in the entry;
 - (d) disclose such data held by the person to any person who is not described in the entry; or
 - (e) directly or indirectly transfer such data held by the person to any country or territory outside Jersey other than one named or described in the entry.
- (3) A servant or agent of a person to whom paragraph (2) applies shall, as respects personal data held by that person, be subject to the same restrictions on the use, disclosure or transfer of the data as those to which that person is subject under paragraph (2)(b), (d) and (e) and, as respects personal data to be held by that person, to the same restrictions as those to which he or she is subject under paragraph (2)(c).
- (4) A person shall not, in carrying on a computer bureau, provide services in respect of personal data unless an entry in respect of that person as a person carrying on such a bureau, or as a data user who also carries on such a bureau, is for the time being contained in the register.
- (5) Any person who contravenes paragraph (1) or knowingly or recklessly contravenes any of the other provisions of this Article shall be guilty of an offence.

5 Applications for registration and for alteration of registered particulars

- (1) A person applying for registration shall state whether the person wishes to be registered as a data user, as a person carrying on a computer bureau or as a data user who also carries on such a bureau, and shall furnish the Registrar, in such form as may be required, with the particulars required to be included in the entry to be made in pursuance of the application.

- (2) Where a person intends to hold personal data for 2 or more purposes the person may make separate applications for registration in respect of any of those purposes.
- (3) A registered person may at any time apply to the Registrar for the alteration of any particulars included in the entry or entries relating to that person.
- (4) Where the alteration would consist of the addition of a purpose for which personal data are to be held, the person may, instead of making an application under paragraph (3), make a fresh application for registration in respect of the additional purpose.
- (5) A registered person shall make an application under paragraph (3) whenever necessary for ensuring that the entry or entries relating to that person contain the person's current address; and any person who fails to comply with this paragraph shall be guilty of an offence.
- (6) Any person who, in connection with an application for registration or for the alteration of registered particulars, knowingly or recklessly furnishes the Registrar with information which is false or misleading in a material respect shall be guilty of an offence.
- (7) Every application for registration shall be accompanied by the prescribed fee, and every application for the alteration of registered particulars shall be accompanied by such fee, if any, as may be prescribed.
- (8) Any application for registration or for the alteration of registered particulars may be withdrawn by notice in writing to the Registrar at any time before the applicant receives a notification in respect of the application under Article 6(1).

6 Acceptance and refusal of applications

- (1) Subject to the provisions of this Article, the Registrar shall as soon as practicable and in any case within the period of 6 months after receiving an application for registration or for the alteration of registered particulars notify the applicant in writing whether the applicant's application has been accepted or refused; and where the Registrar notifies an applicant that the applicant's application has been accepted the notification shall contain a statement of –
 - (a) the particulars entered in the register, or the alteration made, in pursuance of the application; and
 - (b) the date on which the particulars were entered or the alteration was made.
- (2) The Registrar shall not refuse an application made in accordance with Article 5 unless –
 - (a) the Registrar considers that the particulars proposed for registration or, as the case may be, the particulars that would result from the proposed alteration, will not give sufficient information as to the matters to which they relate;
 - (b) the Registrar is satisfied that the applicant is likely to contravene any of the data protection principles; or

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- (c) the Registrar considers that the information available to him or her is insufficient to satisfy the Registrar that the applicant is unlikely to contravene any of those principles.
- (3) Paragraph (2)(a) shall not be construed as precluding the acceptance by the Registrar of particulars expressed in general terms in cases where that is appropriate, and the Registrar shall accept particulars expressed in such terms in any case in which the Registrar is satisfied that more specific particulars would be likely to prejudice the purpose or purposes for which the data are to be held.
- (4) Where the Registrar refuses an application under this Article the Registrar shall give his or her reasons and shall so inform the applicant and inform the applicant also of the rights of appeal conferred by Article 12.
- (5) If in any case it appears to the Registrar that an application needs more consideration than can be given to it in the period mentioned in paragraph (1) the Registrar shall as soon as practicable and in any case before the end of that period notify the applicant in writing to that effect; and in that event no notification need be given under that paragraph until after the end of that period.
- (6) Subject to paragraph (8), a person who has made an application in accordance with Article 5 shall –
- (a) until the person receives a notification in respect of it under paragraph (1) or the application is withdrawn; and
 - (b) if the person receives a notification under that paragraph of the refusal of the person's application, until the end of the period within which an appeal can be brought against the refusal and, if an appeal is brought, until the determination or withdrawal of the appeal,
- be treated for the purposes of Article 4 as if the person's application had been accepted and the particulars contained in it had been entered in the register or, as the case may be, the alteration requested in the application had been made on the date on which the application was made.
- (7) If by reason of special circumstances the Registrar considers that a refusal notified to an applicant under paragraph (1) should take effect as a matter of urgency the Registrar may include a statement to that effect in the notification of the refusal; and in that event paragraph (6)(b) shall have effect as if for the words from the "period" onwards there were substituted the words the "period of 7 days beginning with the date on which that notification is received".
- (8) Paragraph (6) shall not apply to an application made by any person if in the previous 2 years –
- (a) an application by that person has been refused under this Article; or
 - (b) all or any of the particulars constituting an entry contained in the register in respect of that person have been removed in pursuance of a de-registration notice,

but in the case of any such application paragraph (1) shall apply as if for the reference to 6 months there were substituted a reference to 2 months and, where the Registrar gives a notification under paragraph (5) in respect of any such application, paragraph (6) shall apply to it as if for the reference to the date on which the application was made there were substituted a reference to the date on which that notification is received.

- (9) For the purposes of paragraph (6) an application shall be treated as made or withdrawn –
- (a) if the application or notice of withdrawal is sent by registered post or the recorded delivery service, on the date on which it is received for dispatch by the Committee for Postal Administration;
 - (b) in any other case, on the date on which it is received by the Registrar,

and for the purposes of paragraph (8)(a) an application shall not be treated as having been refused so long as an appeal against the refusal can be brought, while such an appeal is pending or if such an appeal has been allowed.

7 Duration and renewal of registration

- (1) No entry shall be retained in the register after the expiration of the initial period of registration except in pursuance of a renewal application made to the Registrar in accordance with this Article.
- (2) Subject to paragraph (3), the initial period of registration and the period for which an entry is to be retained in pursuance of a renewal application (the “renewal period”) shall be such period (not being less than 3 years) as may be prescribed beginning with the date on which the entry in question was made or, as the case may be, the date on which that entry would fall to be removed if the renewal application had not been made.
- (3) The person making an application for registration or a renewal application may in the person’s application specify as the initial period of registration or, as the case may be, as the renewal period, a period shorter than that prescribed, being a period consisting of one or more complete years.
- (4) Where the Registrar notifies an applicant for registration that the applicant’s application has been accepted the notification shall include a statement of the date when the initial period of registration will expire.
- (5) Every renewal application shall be accompanied by the prescribed fee, and no such application shall be made except in the period of 6 months ending with the expiration of –
 - (a) the initial period of registration; or
 - (b) if there have been one or more previous renewal applications, the current renewal period.
- (6) Any renewal application may be sent by post, and the Registrar shall acknowledge its receipt and notify the applicant in writing of the date until which the entry in question will be retained in the register in pursuance of the application.

- (7) Without prejudice to the foregoing provisions of this Article, the Registrar may at any time remove an entry from the register at the request of the person to whom the entry relates.

8 Inspection of register

- (1) The Registrar shall provide facilities for making the information contained in the entries in the register available for inspection (in visible and legible form) by members of the public at all reasonable hours and free of charge.
- (2) The Registrar shall, on payment of such fee, if any, as may be prescribed, supply any member of the public with a duly certified copy in writing of the particulars contained in the entry made in the register in pursuance of any application for registration.

9 Enforcement notices

- (1) If the Registrar is satisfied that a registered person has contravened or is contravening any of the data protection principles the Registrar may serve the person with a notice (an “enforcement notice”) requiring the person to take, within such time as is specified in the notice, such steps as are so specified for complying with the principle or principles in question.
- (2) In deciding whether to serve an enforcement notice the Registrar shall consider whether the contravention has caused or is likely to cause any person damage or distress.
- (3) An enforcement notice in respect of a contravention of the fifth data protection principle may require the data user –
 - (a) to rectify or erase the data and any other data held by the data user and containing an expression of opinion which appears to the Registrar to be based on the inaccurate data; or
 - (b) in the case of such data as are mentioned in Article 21(2), either to take the steps mentioned in sub-paragraph (a) or to take such steps as are specified in the notice for securing compliance with the requirements specified in that paragraph and, if the Registrar thinks fit, for supplementing the data with such statement of the true facts relating to the matters dealt with by the data as the Registrar may approve.
- (4) The Registrar shall not serve an enforcement notice requiring the person served with the notice to take steps for complying with paragraph (a) of the seventh data protection principle in respect of any data subject unless the Registrar is satisfied that the person has contravened Article 20 by failing to supply information to which the data subject is entitled and which has been duly requested in accordance with that Article.
- (5) An enforcement notice shall contain –
 - (a) a statement of the principle or principles which the Registrar is satisfied have been or are being contravened and the Registrar’s reasons for reaching that conclusion; and

- (b) particulars of the rights of appeal conferred by Article 12.
- (6) Subject to paragraph (7), the time specified in an enforcement notice for taking the steps which it requires shall not expire before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, those steps need not be taken pending the determination or withdrawal of the appeal.
- (7) If by reason of special circumstances the Registrar considers that the steps required by an enforcement notice should be taken as a matter of urgency the Registrar may include a statement to that effect in the notice; and in that event paragraph (6) shall not apply but the notice shall not require the steps to be taken before the end of the period of 7 days beginning with the date on which the notice is served.
- (8) The Registrar may cancel an enforcement notice by written notification to the person on whom it was served.
- (9) Any person who fails to comply with an enforcement notice shall be guilty of an offence; but it shall be a defence for a person charged with an offence under this paragraph to prove that the person exercised all due diligence to comply with the notice in question.

10 De-registration notices

- (1) If the Registrar is satisfied that a registered person has contravened or is contravening any of the data protection principles the Registrar may –
 - (a) serve the person with a notice (a “de-registration notice”) stating that the Registrar proposes, at the expiration of such period as is specified in the notice, to remove from the register all or any of the particulars constituting the entry or any of the entries contained in the register in respect of that person; and
 - (b) subject to the provisions of this Article, remove those particulars from the register at the expiration of that period.
- (2) In deciding whether to serve a de-registration notice the Registrar shall consider whether the contravention has caused or is likely to cause any person damage or distress, and the Registrar shall not serve such a notice unless satisfied that compliance with the principle or principles in question cannot be adequately secured by the service of an enforcement notice.
- (3) A de-registration notice shall contain –
 - (a) a statement of the principle or principles which the Registrar is satisfied have been or are being contravened and the Registrar’s reasons for reaching that conclusion and deciding that compliance cannot be adequately secured by the service of an enforcement notice; and
 - (b) particulars of the rights of appeal conferred by Article 12.
- (4) Subject to paragraph (5), the period specified in a de-registration notice pursuant to paragraph (1)(a) shall not expire before the end of the period within which an appeal can be brought against the notice, and if such an

appeal is brought, the particulars shall not be removed pending the determination or withdrawal of the appeal.

- (5) If by reason of special circumstances the Registrar considers that any particulars should be removed from the register as a matter of urgency the Registrar may include a statement to that effect in the de-registration notice; and in that event paragraph (4) shall not apply but the particulars shall not be removed before the end of the period of 7 days beginning with the date on which the notice is served.
- (6) The Registrar may cancel a de-registration notice by written notification to the person on whom it was served.
- (7) References in this Article to removing any particulars include references to restricting any description which forms part of any particulars.

11 Transfer prohibition notices

- (1) If it appears to the Registrar that –
 - (a) a person registered as a data user or as a data user who also carries on a computer bureau; or
 - (b) a person treated as so registered by virtue of Article 6(6),proposes to transfer personal data held by the person to a place outside Jersey, the Registrar may, if satisfied as to the matters mentioned in paragraph (2) or (3), serve that person with a notice (a “transfer prohibition notice”) prohibiting the person from transferring the data either absolutely or until the person has taken such steps as are specified in the notice for protecting the interests of the data subjects in question.
- (2) Where the place to which the data are to be transferred is not in a State bound by the European Convention the Registrar must be satisfied that the transfer is likely to contravene, or lead to a contravention of, any of the data protection principles.
- (3) Where the place to which the data are to be transferred is in a State bound by the European Convention the Registrar must be satisfied either –
 - (a) that –
 - (i) the person in question intends to give instructions for the further transfer of the data to a place which is not in such a State, and
 - (ii) that the further transfer is likely to contravene, or lead to a contravention of, any of the data protection principles; or
 - (b) in the case of data to which Regulations under Article 1(12) apply, that the transfer is likely to contravene or lead to a contravention of, any of the data protection principles as they have effect in relation to such data.
- (4) In deciding whether to serve a transfer prohibition notice the Registrar shall consider whether the notice is required for preventing damage or distress to any person and shall have regard to the general desirability of

facilitating the free transfer of data between Jersey and other states and territories.

- (5) A transfer prohibition notice shall specify the time when it is to take effect and contain –
 - (a) a statement of the principle or principles which the Registrar is satisfied are likely to be contravened and the Registrar's reasons for reaching that conclusion; and
 - (b) particulars of the rights of appeal conferred by Article 12.
- (6) Subject to paragraph (7), the time specified in a transfer prohibition notice pursuant to paragraph (5) shall not be before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the notice shall not take effect pending the determination or withdrawal of the appeal.
- (7) If by reason of special circumstances the Registrar considers that the prohibition should take effect as a matter of urgency the Registrar may include a statement to that effect in the transfer prohibition notice; and in that event paragraph (6) shall not apply but the notice shall not take effect before the end of the period of 7 days beginning with the date on which the notice is served.
- (8) The Registrar may cancel a transfer prohibition notice by written notification to the person on whom it was served.
- (9) No transfer prohibition notice shall prohibit the transfer of any data where the transfer of the information constituting the data is required or authorized by or under any enactment or required by any convention or other instrument imposing an international obligation on the United Kingdom and extending to Jersey.
- (10) Any person who contravenes a transfer prohibition notice shall be guilty of an offence; but it shall be a defence for a person charged with an offence under this paragraph to prove that the person exercised all due diligence to avoid a contravention of the notice in question.
- (11) For the purposes of this Article a place shall be treated as in a State bound by the European Convention if it is in any territory in respect of which the State is bound.

12 Rights of appeal

- (1) A person may appeal to the Tribunal against –
 - (a) any refusal by the Registrar of an application by that person for registration or for the alteration of registered particulars;
 - (b) any enforcement notice, de-registration notice or transfer prohibition notice with which that person has been served.
- (2) Where a notification that an application has been refused contains a statement by the Registrar in accordance with Article 6(7), then, whether or not the applicant appeals under paragraph (1)(a), the applicant may appeal against the Registrar's decision to include that statement in the notification.

- (3) Where any such notice as is mentioned in paragraph (1)(b) contains a statement by the Registrar in accordance with Article 9(7), 10(5) or 11(7) then, whether or not the person served with the notice appeals under that sub-paragraph, the person may appeal against the Registrar's decision to include that statement in the notice or against the effect of the inclusion of the statement as respects any part of the notice.
- (4) Schedule 3 shall have effect in relation to appeals under this Article and to the proceedings of the Tribunal in respect of any such appeal.

13 Determination of appeals

- (1) If on an appeal under Article 12(1) the Tribunal considers –
 - (a) that the refusal or notice against which the appeal is brought is not in accordance with the law; or
 - (b) to the extent that the refusal or notice involved an exercise of discretion by the Registrar that the Registrar ought to have exercised his or her discretion differently,the Tribunal shall allow the appeal or substitute such other decision or notice as could have been made or served by the Registrar and in any other case the Tribunal shall dismiss the appeal.
- (2) The Tribunal may review any determination of fact on which the refusal or notice in question was based.
- (3) On an appeal under Article 12(2) the Tribunal may direct that such notification of the refusal shall be treated as if it did not contain any such statement as is mentioned in that paragraph.
- (4) On an appeal under Article 12(3) the Tribunal may direct that the notice in question shall have effect as if it did not contain any such statement as is mentioned in that paragraph or that the inclusion of the statement shall not have effect in relation to any part of the notice and may make such modifications in the notice as may be required for giving effect to the direction.
- (5) Any party to an appeal to the Tribunal may appeal from the decision of the Tribunal on a point of law to the Royal Court.

14 Unauthorized disclosure by computer bureaux

- (1) Personal data in respect of which services are provided by a person carrying on a computer bureau shall not be disclosed by the person without the prior authority of the person for whom those services are provided.
- (2) Paragraph (1) applies also to any servant or agent of a person carrying on a computer bureau.
- (3) Any person who knowingly or recklessly contravenes this Article shall be guilty of an offence.

15 Powers of entry and inspection

Schedule 4 shall have effect for the detection of offences under this Law and contraventions of the data protection principles.

16 Disclosure of information

- (1) No enactment or rule of law prohibiting or restricting the disclosure of information shall preclude a person from furnishing the Registrar or the Tribunal with any information necessary for the discharge of their functions under this Law.
- (2) For the purposes of Article 4 of the Official Secrets (Jersey) Law 1952¹ –
 - (a) the Registrar and the Registrar's staff; and
 - (b) the members of the Tribunal,shall be deemed to hold office under Her Majesty.
- (3) The said Article 4 shall not be construed as precluding the disclosure of information by any person mentioned in paragraph (2)(a) or (b) where the disclosure is made for the purpose of discharging the person's duties under this Law or for the purpose of proceedings under or arising out of this Law, including proceedings before the Tribunal.

17 Serving of notices

- (1) Any notice or notification authorized or required by this Law to be served on or given to any person by the Registrar may –
 - (a) if that person is an individual, be served on the person –
 - (i) by delivering it to the person,
 - (ii) by sending it to the person by post addressed to the person at the person's usual or last known place of residence or business, or
 - (iii) by leaving it for the person at that place;
 - (b) if that person is a body corporate or unincorporate, be served on that body –
 - (i) by sending it by post to the proper officer of the body at its principal office, or
 - (ii) by addressing it to the proper officer of the body and leaving it at that office.
- (2) In paragraph (1)(b), "principal office", in relation to a registered company, means its registered office and "proper officer", in relation to any body, means the secretary or other executive officer charged with the conduct of its general affairs.
- (3) This Article is without prejudice to any other lawful method of serving or giving a notice or notification.

18 Prosecution and penalties

- (1) No proceedings for an offence under this Law shall be instituted except by or with the consent of the Attorney General.
- (2) A person guilty of an offence under any provision of this Law shall be liable on conviction to a fine.
- (3) Subject to paragraph (4), the court by or before which a person is convicted of an offence under Article 4, 9, 11 or 14 may order any data material appearing to the Court to be connected with the commission of the offence to be forfeited, destroyed or erased.
- (4) The Court shall not make an order under paragraph (3) in relation to any material where a person (other than the offender) claiming to be the owner or otherwise interested in it applies to be heard by the Court unless an opportunity is given to the person to show cause why the Order should not be made.

19 Liability of directors etc.

- (1) Where an offence under this Law has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or similar officer of the body corporate or any person who was purporting to act in any such capacity, he or she as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

PART 3**RIGHTS OF DATA SUBJECTS****20 Rights of access to personal data**

- (1) Subject to the provisions of this Article, an individual shall be entitled –
 - (a) to be informed by any data user whether the data held by the data user include personal data of which that individual is the data subject; and
 - (b) to be supplied by any data user with a copy of the information constituting any such personal data held by the data user,and where any of the information referred to in sub-paragraph (b) is expressed in terms which are not intelligible without explanation the information shall be accompanied by an explanation of those terms.
- (2) A data user shall not be obliged to supply any information under paragraph (1) except in response to a request in writing and on payment

of such fee (not exceeding the prescribed maximum) as the data user may require; but a request for information under both sub-paragraphs of that paragraph shall be treated as a single request and a request for information under sub-paragraph (a) shall, in the absence of any indication to the contrary, be treated as extending also to information under sub-paragraph (b).

- (3) In the case of a data user having separate entries in the register in respect of data held for different purposes a separate request must be made and a separate fee paid under this Article in respect of the data to which each entry relates.
- (4) A data user shall not be obliged to comply with a request under this Article –
 - (a) unless the data user is supplied with such information as he or she may reasonably require in order to satisfy himself or herself as to the identity of the person making the request and to locate the information which the requester seeks; and
 - (b) if the data user cannot comply with the request without disclosing information relating to another individual who can be identified from that information, unless the data user is satisfied that the other individual has consented to the disclosure of the information to the person making the request.
- (5) In paragraph (4)(b) the reference to information relating to another individual includes a reference to information identifying that individual as the source of the information sought by the request; and that sub-paragraph shall not be construed as excusing a data user from supplying so much of the information sought by the request as can be supplied without disclosing the identity of the other individual concerned, whether by the omission of names or other identifying particulars or otherwise.
- (6) A data user shall comply with a request under this Article within 40 days of receiving the request or, if later, receiving the information referred to in paragraph (4)(a) and, in a case where it is required, the consent referred to in paragraph (4)(b).
- (7) The information to be supplied pursuant to a request under this Article shall be supplied by reference to the data in question at the time when the request is received except that it may take account of any amendment or deletion made between that time and the time when the information is supplied, being an amendment or deletion that would have been made regardless of the receipt of the request.
- (8) If a data user fails to comply with a request under this Article, the person making the request may apply to the Registrar with a view to the Registrar serving an enforcement notice and where the Registrar refuses the application, the person concerned may appeal to the Tribunal and the provisions of this Law relating to appeals to the Tribunal shall apply to any such appeal under this Article.
- (9) If the Tribunal is satisfied on the application of any person who has made a request under the foregoing provisions of this Article that the data user in question has failed to comply with the request in contravention of those provisions, the Tribunal may order the data user to comply with the

request; but the Tribunal shall not so order if it considers that it would in all the circumstances be unreasonable to do so, whether because of the frequency with which the applicant has made requests to the data user under those provisions or for any other reason.

- (10) The Committee may by Order provide for enabling a request under this Article to be made on behalf of any individual who is incapable by reason of mental disorder of managing the individual's own affairs.

21 Compensation for inaccuracy

- (1) An individual who is the subject of personal data held by a data user and who suffers damage by reason of the inaccuracy of the data shall be entitled to compensation from the data user for that damage and for any distress which the individual has suffered by reason of the inaccuracy.
- (2) In the case of data which accurately record information received or obtained by the data user from the data subject or a third party, paragraph (1) does not apply if the following requirements have been complied with –
- (a) the data indicate that the information was received or obtained as aforesaid or the information has not been extracted from the data except in a form which includes an indication to that effect; and
 - (b) if the data subject has notified the data user that the data subject regards the information as incorrect or misleading, an indication to that effect has been included in the data or the information has not been extracted from the data except in a form which includes an indication to that effect.
- (3) In proceedings brought against any person by virtue of this Article it shall be a defence to prove that the person had taken such care as in all the circumstances was reasonably required to ensure the accuracy of the data at the material time.
- (4) Data are inaccurate for the purposes of this Article if incorrect or misleading as to any matter of fact.

22 Compensation for loss or unauthorized disclosure

- (1) An individual who is the subject of personal data held by a data user or in respect of which services are provided by a person carrying on a computer bureau and who suffers damage by reason of –
- (a) the loss of the data;
 - (b) the destruction of the data without the authority of the data user or, as the case may be, of the person carrying on the bureau; or
 - (c) subject to paragraph (2), the disclosure of the data, or access having been obtained to the data, without such authority as aforesaid,

shall be entitled to compensation from the data user or, as the case may be the person carrying on the bureau for that damage and for any distress

which the individual has suffered by reason of the loss, destruction, disclosure or access.

- (2) In the case of a registered data user, paragraph (1)(c) does not apply to disclosure to, or access by, any person falling within a description specified pursuant to Article 3(3)(d) in an entry in the register relating to that data user.
- (3) In proceedings brought against any person by virtue of this Article it shall be a defence to prove that the person had taken such care as in all the circumstances was reasonably required to prevent the loss, destruction, disclosure or access in question.

23 Rectification and erasure

- (1) If the Royal Court is satisfied on the application of a data subject that personal data held by a data user of which the applicant is the subject are inaccurate within the meaning of Article 21, the Court may order the rectification or erasure of the data and of any data held by the data user and containing an expression of opinion which appears to the Court to be based on the inaccurate data.
- (2) Paragraph (1) applies whether or not the data accurately record information received or obtained by the data user from the data subject or a third party but where the data accurately record such information, then –
 - (a) if the requirements mentioned in Article 21(2) have been complied with, the Court may, instead of making an order under paragraph (1), make an order requiring the data to be supplemented by such statement of the true facts relating to the matters dealt with by the data as the Court may approve; and
 - (b) if all or any of those requirements have not been complied with, the Court may, instead of making an order under that paragraph, make such order as it thinks fit for securing compliance with those requirements with or without a further order requiring the data to be supplemented by such a statement as is mentioned in subparagraph (a).
- (3) If the Royal Court is satisfied on the application of a data subject –
 - (a) that the data subject has suffered damage by reason of the disclosure of personal data, or of access having been obtained to personal data, in circumstances entitling the data subject to compensation under Article 22; and
 - (b) that there is a substantial risk of further disclosure of or access to the data without such authority as is mentioned in that Article,

the Court may order the erasure of the data; but, in the case of data in respect of which services were being provided by a person carrying on a computer bureau, the Court shall not make such an order unless such steps as are reasonably practicable have been taken for notifying the person for whom those services were provided and giving the person an opportunity to be heard.

24 Procedure

For the purpose of determining any question whether an applicant under Article 20(8) or (9) is entitled to the information which the applicant seeks (including any question whether any relevant data are exempt from that Article by virtue of Part 4) the Registrar or the Tribunal may require the information constituting any data held by the data user to be made available for the Registrar's or its own inspection but shall not, pending the determination of that question in the applicant's favour, require the information sought by the applicant to be disclosed to the applicant or the applicant's representatives whether by discovery or otherwise.

PART 4**EXEMPTIONS****25 Preliminary**

- (1) References in any provision of Part 2 or 3 to personal data do not include references to data which by virtue of this Part are exempt from that provision.
- (2) In this Part the "subject access provisions" means –
 - (a) Article 20; and
 - (b) any provision of Part 2 conferring a power on the Registrar to the extent to which it is exercisable by reference to paragraph (a) of the seventh data protection principle.
- (3) In this Part the "non-disclosure provisions" means –
 - (a) Articles 4(2)(d) and 14; and
 - (b) any provision of Part 2 conferring a power on the Registrar to the extent to which it is exercisable by reference to any data protection principle inconsistent with the disclosure in question.
- (4) Except as provided by this Part the subject access provisions shall apply notwithstanding any enactment or rule of law prohibiting or restricting the disclosure, or authorizing the withholding, of information.

26 National security

- (1) Personal data are exempt from the provisions of Part 2 and Articles 20 to 23 if the exemption is required for the purpose of safeguarding national security.
- (2) Any question whether the exemption mentioned in paragraph (1) is or at any time was required for the purpose there mentioned in respect of any personal data shall be determined by the Bailiff and a certificate signed by the Bailiff certifying that the exemption is or at any time was so required shall be conclusive evidence of that fact.

- (3) Personal data which are not exempt under paragraph (1) are exempt from the non-disclosure provisions in any case in which the disclosure of the data is for the purpose of safeguarding national security.
- (4) For the purposes of paragraph (3) a certificate signed by the Bailiff certifying that personal data are or have been disclosed for the purpose mentioned in that paragraph shall be conclusive evidence of that fact.
- (5) A document purporting to be such a certificate as is mentioned in this Article shall be received in evidence and deemed to be such a certificate unless the contrary is proved.

27 Crime and taxation

- (1) Personal data held for any of the following purposes –
 - (a) the prevention or detection of crime;
 - (b) the apprehension or prosecution of offenders; or
 - (c) the assessment or collection of any tax or duty,are exempt from the subject access provisions in any case in which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this paragraph.
- (2) Personal data which –
 - (a) are held for the purpose of discharging statutory functions; and
 - (b) consist of information obtained for such a purpose from a person who had it in the person's possession for any of the purposes mentioned in paragraph (1),are exempt from the subject access provisions to the same extent as personal data held for any of the purposes mentioned in that paragraph.
- (3) Personal data are exempt from the non-disclosure provisions in any case in which –
 - (a) the disclosure is for any of the purposes mentioned in paragraph (1); and
 - (b) the application of those provisions in relation to the disclosure would be likely to prejudice any of the matters mentioned in that paragraph,and in proceedings against any person for contravening a provision mentioned in Article 25(3)(a) it shall be a defence to prove that the person had reasonable grounds for believing that failure to make the disclosure in question would have been likely to prejudice any of those matters.
- (4) Personal data are exempt from the provisions of Part 2 conferring powers on the Registrar to the extent to which they are exercisable by reference to the first data protection principle, in any case in which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in paragraph (1).

28 Health and social work

- (1) The States may by Regulations exempt from the subject access provisions, or modify those provisions in relation to, personal data consisting of information as to the physical or mental health of the data subject.
- (2) The States may by Regulations exempt from the subject access provisions, or modify those provisions in relation to, personal data of such other descriptions as may be specified in the Regulations, being information –
 - (a) held by States' Departments or parish authorities or by voluntary organizations or other bodies designated by or under the Regulations; and
 - (b) appearing to the States to be held for, or acquired in the course of, carrying out social work including child care in relation to the data subject or other individuals,

but the States shall not under this paragraph confer any exemption or make any modification except so far as they consider that the application to the data of those provisions (or of those provisions without modification) would be likely to prejudice the carrying out of social work.

- (3) Regulations under this Article may make different provision in relation to data consisting of information of different descriptions.

29 Regulation of financial services etc.

- (1) Personal data held for the purpose of discharging functions to which this Article applies are exempt from the subject access provisions in any case in which the application of those provisions to the data would be likely to prejudice the proper discharge of those functions.
- (2) This Article applies to any functions designated for the purposes of this Article by Regulations made by the States being functions conferred by or under any enactment or customary law appearing to them to be designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or in the management of companies or to the conduct of discharged or undischarged bankrupts.

30 Judicial appointments and legal professional privilege

- (1) Personal data held by the Crown or by a States' Department are exempt from the subject access provisions if the data consist of information which has been received from a third party and is held as information relevant to the making of judicial appointments.
- (2) Personal data are exempt from the subject access provisions if the data consist of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

31 Payrolls and accounts

- (1) Subject to paragraph (2), personal data held by a data user only for one or more of the following purposes –
 - (a) calculating amounts payable by way of remuneration or pensions in respect of service in any employment or office or making payments of, or of sums deducted from, such remuneration or pensions; or
 - (b) keeping accounts relating to any business or other activity carried on by the data user or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments are made by or to the data user in respect of those transactions or for the purpose of making financial or management forecasts to assist the data user in the conduct of any such business or activity,are exempt from the provisions of Part 2 and of Articles 20 to 23.
- (2) It shall be a condition of the exemption of any data under this Article that the data are not used for any purpose other than the purpose or purposes for which they are held and are not disclosed except as permitted by paragraphs (3) and (4) but the exemption shall not be lost by any use or disclosure in breach of that condition if the data user shows that the data user had taken such care to prevent it as in all the circumstances was reasonably required.
- (3) Data held only for one or more of the purposes mentioned in paragraph (1)(a) may be disclosed –
 - (a) to any person, other than the data user, by whom the remuneration or pensions in question are payable;
 - (b) for the purposes of obtaining actuarial advice;
 - (c) for the purpose of giving information as to the persons in any employment or office for use in medical research into the health of, or injuries suffered by, persons engaged in particular occupations or working in particular places or areas;
 - (d) if the data subject (or a person acting on the data subject's behalf) has requested or consented to the disclosure of the data either generally or in the circumstances in which the disclosure in question is made; or
 - (e) if the person making the disclosure has reasonable grounds for believing that the disclosure falls within sub-paragraph (d).
- (4) Data held for any of the purposes mentioned in paragraph (1) may be disclosed –
 - (a) for the purpose of audit or where the disclosure is for the purpose only of giving information about the data user's financial affairs; or
 - (b) in any case in which disclosure would be permitted by any other provision of this Part of this Law if paragraph (2) were included among the non-disclosure provisions.
- (5) In this Article "remuneration" includes remuneration in kind and "pensions" includes gratuities or similar benefits.

32 Domestic or other limited purposes

- (1) Personal data held by an individual and concerned only with the management of the individual's personal, family or household affairs or held by the individual only for recreational purposes are exempt from the provisions of Part 2 and of Articles 20 to 23.
- (2) Subject to paragraphs (3) and (4) –
 - (a) personal data held by an unincorporated members' club and relating only to the members of the club; and
 - (b) personal data held by a data user only for the purpose of distributing, or recording the distribution of, articles or information to the data subjects and consisting only of their names, addresses or other particulars necessary for effecting the distribution,are exempt from the provisions of Part 2 and of Articles 20 to 23.
- (3) Neither paragraph (2)(a) nor (b) applies to personal data relating to any data subject unless the data subject has been asked by the club or data user whether the data subject objects to the data relating to the data subject being held as mentioned in that sub-paragraph and has not objected.
- (4) It shall be a condition of the exemption of any data under paragraph (2)(b) that the data are not used for any purpose other than that for which they are held and of the exemption of any data under either sub-paragraph of paragraph (2) that the data are not disclosed except as permitted by paragraph (5); but the first exemption shall not be lost by any use, and neither exemption shall be lost by any disclosure in breach of that condition if the data user shows that the data user had taken such care to prevent it as in all the circumstances was reasonably required.
- (5) Data to which paragraph (4) applies may be disclosed –
 - (a) if the data subject (or a person acting on the data subject's behalf) has requested or consented to the disclosure of the data either generally or in the circumstances in which the disclosure in question is made;
 - (b) if the person making the disclosure has reasonable grounds for believing that the disclosure falls within sub-paragraph (a); or
 - (c) in any case in which disclosure would be permitted by any other provision of this Part of this Law if paragraph (4) were included among the non-disclosure provisions.
- (6) Personal data held only for –
 - (a) preparing statistics; or
 - (b) carrying out research,are exempt from the subject access provisions; but it shall be a condition of that exemption that the data are not used or disclosed for any other purpose and that the resulting statistics or the results of the research are not made available in a form which identifies the data subjects or any of them.

33 Other exemptions

- (1) Personal data held by any person are exempt from the provisions of Part 2 and of Articles 20 to 23 if the data consist of information which that person is required by or under any enactment to make available to the public, whether by publishing it, making it available for inspection or otherwise and whether gratuitously or on payment of a fee.
- (2) The States may by Regulations exempt from the subject access provisions personal data consisting of information the disclosure of which is prohibited or restricted by or under any enactment if they consider that the prohibition or restriction ought to prevail over those provisions in the interests of the data subject or of any other individual.
- (3) Personal data are exempt from the subject access provisions if the data are kept only for the purpose of replacing other data in the event of the latter being lost, destroyed or impaired.
- (4) Personal data are exempt from the non-disclosure provisions in any case in which the disclosure is –
 - (a) required by or under any enactment, by any rule of law or by the Order of a Court; or
 - (b) made for the purpose of obtaining legal advice or for the purposes of, or in the course of, legal proceedings in which the person making the disclosure is a party or a witness.
- (5) Personal data are exempt from the non-disclosure provisions in any case in which –
 - (a) the disclosure is to the data subject or a person acting on the data subject's behalf;
 - (b) the data subject or any such person has requested or consented to the particular disclosure in question;
 - (c) the disclosure is by a data user or a person carrying on a computer bureau to his or her servant or agent for the purpose of enabling the servant or agent to perform his or her functions as such;
 - (d) the disclosure is by a data user or a person carrying on a computer bureau to a person in order that that person may maintain, rectify defects or make alterations to, the computer hardware or software of the data user; or
 - (e) the person making the disclosure has reasonable grounds for believing that the disclosure falls within any of sub-paragraphs (a) to (d).
- (6) Article 3(3)(d) does not apply to any disclosure falling within paragraph (5)(a), (b) or (c); and that paragraph shall apply to the restriction on disclosure in Article 32(6) as it applies to the non-disclosure provisions.
- (7) Personal data are exempt from the non-disclosure provisions in any case in which the disclosure is urgently required for preventing injury or other damage to the health of any person or persons; and in proceedings against any person for contravening a provision mentioned in Article 25(3)(a) it shall be a defence to prove that the person had reasonable grounds for

believing that the disclosure in question was urgently required for that purpose.

- (8) A person need not comply with a notice, request or order under the subject access provisions if compliance would expose the person to proceedings for any offence other than an offence under this Law; and information disclosed by any person in compliance with such a notice, request or order shall not be admissible against the person in proceedings for an offence under this Law.

34 Examination results

- (1) Article 20 shall have effect subject to the provisions of this Article in the case of personal data consisting of marks or other information held by a data user –
- (a) for the purpose of determining the results of an academic, professional or other examination or of enabling the results of any such examination to be determined; or
 - (b) in consequence of the determination of any such results.
- (2) Where the period mentioned in Article 20(6) begins before the results of the examination are announced that period shall be extended until –
- (a) the end of 5 months from the beginning of that period; or
 - (b) the end of 40 days after the date of the announcement,
- whichever is the earlier.
- (3) Where by virtue of paragraph (2) a request is complied with more than 40 days after the beginning of the period mentioned in Article 20(6), the information to be supplied pursuant to the request shall be supplied both by reference to the data in question at the time when the request is received and (if different) by reference to the data as from time to time held in the period beginning when the request is received and ending when it is complied with.
- (4) For the purposes of this Article the results of an examination shall be treated as announced when they are first published or (if not published) when they are first made available or communicated to the candidate in question.
- (5) In this Article “examination” includes any process for determining the knowledge, intelligence, skill or ability of a candidate by reference to the candidate’s performance in any test, work or other activity.

PART 5

GENERAL

35 General duties of Registrar etc.

- (1) It shall be the duty of the Registrar so to perform the Registrar's functions under this Law as to promote the observance of the data protection principles by data users and persons carrying on computer bureaux.
- (2) The Registrar may consider any complaint that any of the data protection principles or any provision of this Law has been or is being contravened and shall do so if it appears to the Registrar to raise a matter of substance and to have been made without undue delay by a person directly affected; and where the Registrar considers any such complaint the Registrar shall notify the complainant of the result of the Registrar's consideration and of any action which the Registrar proposes to take.
- (3) The Registrar shall arrange for the dissemination in such form and manner as the Registrar considers appropriate of such information as it may appear to the Registrar expedient to give to the public about the operation of this Law and other matters within the scope of the Registrar's functions under this Law and may give advice to any person as to any of those matters.
- (4) It shall be the duty of the Registrar, where the Registrar considers it appropriate to do so, to encourage trade associations or other bodies representing data users to prepare, and to disseminate to their members, codes of practice for guidance in complying with the data protection principles.
- (5) The Committee shall report to the States annually on the operation of this Law and ancillary matters.

36 Co-operation between parties to the Convention

The Registrar shall be the designated authority in Jersey for the purposes of Article 13 of the European Convention; and the States may by Regulations make provision as to the functions to be discharged in that respect by the Registrar.

37 Application to States' Committees and the Police

- (1) Except as provided in paragraph (2), a Committee of the States shall be subject to the same obligations and liabilities under this Law as a private person; and for the purposes of this Law each such Committee shall be treated as a person separate from any other such Committee and a person in the public service shall be treated as a servant of the Committee to which the person's responsibilities or duties relate.
- (2) A Committee of the States shall not be liable to prosecution under this Law but –
 - (a) Articles 4(3) and 14(2) (and, so far as relating to those provisions, Articles 4(5) and 14(3)), shall apply to any person who by virtue of

this Article falls to be treated as a servant of the Committee in question; and

- (b) Article 5(6) and paragraph 11 of Schedule 4 shall apply to a member of the public service as they apply to any other person.
- (3) This Law applies to the Chief Officer of the States of Jersey Police Force and for the purposes of this Law a member of the States of Jersey Police Force shall be treated as a servant of the Chief Officer.

38 Data held and services provided outside Jersey

- (1) Subject to the following provisions of this Article, this Law does not apply to a data user in respect of data held, or to a person carrying on a computer bureau in respect of services provided, outside Jersey.
- (2) For the purposes of paragraph (1) –
 - (a) data shall be treated as held where the data user exercises the control referred to in Article 1(5)(b) in relation to the data; and
 - (b) services shall be treated as provided where the person carrying on the computer bureau does any of the things referred to in Article 1(6)(a) or (b).
- (3) Where a person who is not resident in Jersey –
 - (a) exercises the control mentioned in paragraph (2)(a); or
 - (b) does any of the things mentioned in paragraph (2)(b),through a servant or agent in Jersey, this Law shall apply as if that control were exercised or, as the case may be, those things were done in Jersey by the servant or agent acting on the servant's or agent's own account and not on behalf of the person whose servant or agent the servant or agent is.
- (4) Where by virtue of paragraph (3) a servant or agent is treated as a data user or as a person carrying on a computer bureau the servant or agent may be described for the purposes of registration by the position or office which the servant or agent holds; and any such description in any entry in the register shall be treated as applying to the person for the time being holding the position or office in question.
- (5) This Law does not apply to data processed wholly outside Jersey unless the data are used or intended to be used in Jersey.
- (6) Articles 3(3)(e), 4(2)(e) and 11(1) do not apply to the transfer of data which are already outside Jersey; but references in Article 11 to a contravention of the data protection principles include references to anything that would constitute such contravention if it occurred in relation to the data when held in Jersey.

39 Power to amend Law

The States may by Regulations amend this Law in any manner not inconsistent with the European Convention.

40 Regulations, Rules and Orders

- (1) Any Regulations, Rules or Orders made under this Law may make different provision for different cases or circumstances and may contain such incidental or supplementary provisions as may be expedient for carrying this Law into effect.
- (2) The Committee may by Order prescribe such fees as it considers reasonable for the purposes of any provision of this Law.
- (3) The Subordinate Legislation (Jersey) Law 1960² shall apply to Orders or Rules made under this Law.

41 Citation

This Law may be cited as the Data Protection (Jersey) Law 1987.

SCHEDULE 1

(Article 1(10))

THE DATA PROTECTION PRINCIPLES**PART 1****THE PRINCIPLES****Personal data held by data users**

1. The information to be contained in personal data shall be obtained, and personal data shall be processed, fairly and lawfully.
2. Personal data shall be held only for one or more specified and lawful purposes.
3. Personal data held for any purpose or purposes shall not be used or disclosed in any manner incompatible with that purpose or those purposes.
4. Personal data held for any purpose or purposes shall be adequate, relevant and not excessive in relation to that purpose or those purposes.
5. Personal data shall be accurate and, where necessary, kept up to date.
6. Personal data held for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
7. An individual shall be entitled –
 - (a) at reasonable intervals and without undue delay or expense –
 - (i) to be informed by any data user whether the data user holds personal data of which that individual is the subject, and
 - (ii) to access to any such data held by a data user; and
 - (b) where appropriate, to have such data corrected or erased.

Personal data held by data users or in respect of which services are provided by persons carrying on computer bureaux

8. Appropriate security measures shall be taken against unauthorized access to, or alteration, disclosure or destruction of, personal data and against accidental loss or destruction of personal data.

PART 2**INTERPRETATION**

1 The first principle

- (1) Subject to sub-paragraph (2), in determining whether information was obtained fairly regard shall be had to the method by which it was obtained, including in particular whether any person from whom it was obtained was deceived or misled as to the purpose or purposes for which it is to be held, used or disclosed.
- (2) Information shall in any event be treated as obtained fairly if it is obtained from a person who –
 - (a) is authorized by or under any enactment to supply it; or
 - (b) is required to supply it by or under any enactment or by any convention or other instrument imposing an international obligation on the United Kingdom,

and in determining whether information was obtained fairly there shall be disregarded any disclosure of the information which is authorized or required by or under any enactment or required by any such convention or other instrument as aforesaid.

2 The second principle

Personal data shall not be treated as held for a specified purpose unless that purpose is described in particulars registered under this Law in relation to the data.

3 The third principle

Personal data shall not be treated as used or disclosed in contravention of this principle unless –

- (a) used otherwise than for a purpose of a description registered under this Law in relation to the data; or
- (b) disclosed otherwise than to a person of a description so registered.

4 The fifth principle

Any question whether or not personal data are accurate shall be determined as for the purposes of Article 21 but in the case of such data as are mentioned in Article 21(2) this principle shall not be regarded as having been contravened by reason of any inaccuracy in the information there mentioned if the requirements specified in that paragraph have been complied with.

5 The seventh principle

- (1) Paragraph (a) of this principle shall not be construed as conferring any rights inconsistent with Article 20.
- (2) In determining whether access to personal data is sought at reasonable intervals regard shall be had to the nature of the data, the purpose for which the data are held and the frequency with which the data are altered.

- (3) The correction or erasure of personal data is appropriate only where necessary for ensuring compliance with the other data protection principles.

6 The eighth principle

Regard shall be had –

- (a) to the nature of the personal data and the harm that would result from such access, alteration, disclosure, loss or destruction as are mentioned in this principle; and
- (b) to the place where the personal data are stored, to security measures programmed into the relevant equipment and to measures taken for ensuring the reliability of staff having access to the data.

7 Use for historical, statistical or research purposes

Where personal data are held for historical, statistical or research purposes and not used in such a way that damage or distress is, or is likely to be, caused to any data subject –

- (a) the information contained in the data shall not be regarded for the purposes of the first principle as obtained unfairly by reason only that its use for any such purpose was not disclosed when it was obtained; and
- (b) the data may, notwithstanding the sixth principle, be kept indefinitely.

SCHEDULE 2

(Article 2(2))

THE REGISTRAR AND THE TRIBUNAL**PART 1****1 The Registrar**

- (1) The Registrar shall be appointed by the States on such terms and conditions of service as the Policy and Resources Committee may recommend.
- (2) The Policy and Resources Committee shall make such arrangements as it considers appropriate for the provision of officers to assist the Registrar in the exercise of the Registrar's functions under this Law.
- (3) Any functions of the Registrar under this Law may, to the extent authorized by the Registrar, be performed by any member of the staff of the Judicial Greffe.
- (4) The Registrar shall, on appointment, take oath before the Royal Court in the form set out in Schedule 5.

PART 2**2 The Tribunal**

- (1) The States, on the recommendation of the Policy and Resources Committee, shall appoint a chairman and 4 other members from whom the Tribunal shall be selected.
- (2) The chairman shall be an advocate or solicitor of not less than 7 years standing.
- (3) The chairman and members shall hold office for 3 years and shall be eligible for re-appointment.
- (4) Where the chairman is unable to act, the chairman shall designate one of the 4 other members to act as a deputy chairman.

SCHEDULE 3

(Article 12(4))

APPEAL PROCEEDINGS**1 Hearing of appeals**

- (1) For the purpose of hearing and determining appeals or any matter preliminary or incidental to an appeal, the Tribunal shall consist of the chairman (or deputy chairman) and 2 other members and shall sit at such times and in such places as the chairman or deputy chairman may direct.
- (2) The 2 other members who are to constitute the Tribunal shall be nominated by the chairman or deputy chairman.
- (3) The determination of any appeal shall be according to the opinion of the majority of the members.
- (4) Subject to any Rules made under paragraph 2, the jurisdiction of the Tribunal in respect of an appeal under Article 12(2) or (3) shall be exercised *ex parte* by the chairman or a deputy chairman sitting alone.

2 Rules of procedure

- (1) The Committee may make Rules for regulating the exercise of the rights of appeal conferred by Articles 12 and 20 and the practice and procedure of the Tribunal.
- (2) Without prejudice to the generality of sub-paragraph (1), Rules under this paragraph may in particular make provision –
 - (a) with respect to the period within which an appeal can be brought and the burden of proof on an appeal;
 - (b) for the summoning of witnesses and the administration of oaths;
 - (c) for securing the production of documents and data material;
 - (d) for the inspection, examination, operation and testing of data equipment and the testing of data material;
 - (e) for the hearing of an appeal wholly or partly *in camera*;
 - (f) for hearing an appeal in the absence of the appellant or for determining an appeal without a hearing;
 - (g) for enabling any matter preliminary or incidental to an appeal to be dealt with by the chairman or a deputy chairman;
 - (h) for the awarding of costs;
 - (i) for the publication of reports of the Tribunal's decisions; and

- (j) for conferring on the Tribunal such ancillary powers as the Committee thinks necessary for the proper discharge of its functions.

3 Obstruction etc.

- (1) If any person is guilty of any act or omission in relation to proceedings before the Tribunal which, if those proceedings were proceedings before a court having power to commit for contempt, would constitute contempt of court, the Tribunal may certify the offence to the Royal Court.
- (2) Where an offence is so certified, the Royal Court may inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with the person in any manner in which it could deal with the person if the person had committed the like offence in relation to the Court.

SCHEDULE 4

(Article 15)

POWERS OF ENTRY AND INSPECTION**Issue of warrants**

1. If the Bailiff is satisfied by evidence on oath supplied by a police officer or officer of the Committee that there are reasonable grounds for suspecting –
 - (a) that an offence under this Law has been or is being committed; or
 - (b) that any of the data protection principles have been or are being contravened by a registered person,

and that evidence of the commission of the offence or of the contravention is to be found on any premises specified in the information, the Bailiff may, subject to paragraph 2, grant a warrant authorizing any police officer or officer of the Committee named therein at any time within 7 days of the date of the warrant to enter those premises, to search them, to inspect, examine, operate and test any data equipment found there and to inspect and seize any documents or other material found there which may be such evidence as aforesaid.

2. The Bailiff shall not issue a warrant under this Schedule unless the Bailiff is satisfied –
 - (a) that the Committee has given 7 days' notice in writing to the occupier of the premises in question demanding access to the premises;
 - (b) that access was demanded at a reasonable hour and was unreasonably refused; and
 - (c) that the occupier has, after the refusal, been notified by an officer of the Committee of the application for the warrant and has had an opportunity of being heard by the Bailiff in Chambers on the question whether or not it should be issued,

but the foregoing provisions of this paragraph shall not apply if the Bailiff is satisfied that the case is one of urgency or that compliance with those provisions would defeat the object of the entry.

Execution of warrants

3. A person executing a warrant issued under this Schedule may use such reasonable force as may be necessary.
4. A warrant issued under this Schedule shall be executed at a reasonable hour unless it appears to the person executing it that there are grounds for

suspecting that the evidence in question would not be found if it were so executed.

5. If the person who occupies the premises in respect of which a warrant is issued under this Schedule is present when the warrant is executed, the person shall be shown the warrant and supplied with a copy of it; and if that person is not present a copy of the warrant shall be left in a prominent place on the premises.
6.
 - (1) A person seizing anything in pursuance of a warrant under this Schedule shall give a receipt for it.
 - (2) Anything so seized may be retained for so long as is necessary in all the circumstances but the person in occupation of the premises in question shall be given a copy of anything that is seized if the person so requests and the person executing the warrant considers that it can be done without undue delay.

Matters exempt from inspection and seizure

7. The powers of inspection and seizure conferred by a warrant issued under this Schedule shall not be exercisable in respect of personal data which are exempt from Part 2 of this Law.
8.
 - (1) Subject to the provisions of this paragraph, the powers of inspection and seizure conferred by a warrant issued under this Schedule shall not be exercisable in respect of –
 - (a) any communication between a professional legal adviser and the adviser's client in connection with the giving of legal advice to the client; or
 - (b) any communication between such an adviser or the adviser's client and any other person, made in connection with or in contemplation of proceedings under or arising out of this Law (including proceedings before the Tribunal) and for the purposes of such proceedings.
 - (2) Sub-paragraph (1) applies also to –
 - (a) any copy or other record of any such communication as is there mentioned; and
 - (b) any document or article enclosed with or referred to in any such communication if made in connection with the giving of any advice or, as the case may be, in connection with or in contemplation of and for the purposes of such proceedings as are there mentioned.
 - (3) This paragraph does not apply to anything in the possession of any person other than the professional legal adviser or the adviser's client or to anything held with the intention of furthering a criminal purpose.
 - (4) In this paragraph references to the client of a professional legal adviser include references to any person representing such a client.

9. If the person in occupation of any premises in respect of which a warrant is issued under this Schedule objects to the inspection or seizure under the warrant of any material on the grounds that it consists partly of matters in respect of which those powers are not exercisable, the person shall, if the person executing the warrant so requests, furnish that person with a copy of so much of the material as is not exempt from those powers.

Offences

10. Any person who –
 - (a) intentionally obstructs a person in the execution of a warrant issued under this Schedule; or
 - (b) fails without reasonable excuse to give any person executing such a warrant such assistance as the person may reasonably require for the execution of the warrant,shall be guilty of an offence.

Vessels, vehicles etc.

11. In this Schedule “premises” includes any vessel, vehicle, aircraft or hovercraft, and references to the occupier of any premises include references to the person in charge of any vessel, vehicle, aircraft or hovercraft.

SCHEDULE 5

(Schedule 2 paragraph 1(4))

OATH OF OFFICE

You swear and promise before God that you will well and faithfully discharge the duties of Registrar in accordance with the laws relating to data protection; and that you will not disclose any information which may come to your knowledge in the performance of your duties except to such persons only as shall act in execution of the said laws and where it shall be necessary to disclose the same to them for the purposes of the said laws, or in so far as you may be required to disclose the same for the purposes or in the course of a prosecution for an offence against the said laws, or in such cases as you are expressly authorized by the said laws to disclose the same.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Data Protection (Jersey) Law 1987	L.12/1987	1 September 1987; (Article 20 and paragraph 1(b) of Schedule 4)) in force 11 November 1987

Table of Renumbered Provisions

Original	Current
PART I	PART 1
PART II	PART 2
PART III	PART 3
PART IV	PART 4
PART V	PART 5
41	spent, omitted from this revised edition
42	41
FIRST SCHEDULE	SCHEDULE 1
PART I	PART 1
PART II	PART 2
SECOND SCHEDULE	SCHEDULE 2
PART I	PART 1
PART II	PART 2
THIRD SCHEDULE	SCHEDULE 3
2(2)(j)	2(2)(i)
(k)	(j)
FOURTH SCHEDULE	SCHEDULE 4
FIFTH SCHEDULE	SCHEDULE 5

Table of Endnote References

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- ¹ *chapter 16.450*
² *chapter 15.720*