



Jersey

FREEDOM OF INFORMATION AND DATA PROTECTION (AMENDMENTS) (JERSEY) LAW 2014

Arrangement

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FREEDOM OF INFORMATION AND DATA PROTECTION (AMENDMENTS) (JERSEY) LAW 2014

A LAW to amend further the Freedom of Information (Jersey) Law 2011 and Data Protection (Jersey) Law 2005.

<i>Adopted by the States</i>	<i>21st May 2014</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>16th July 2014</i>
<i>Registered by the Royal Court</i>	<i>25th July 2014</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

FREEDOM OF INFORMATION (JERSEY) LAW 2011 AMENDMENTS

1 Interpretation

In this Part “FOI Law” means the Freedom of Information (Jersey) Law 2011¹.

2 Article 16 amended

For Article 16(1) of the FOI Law there shall be substituted the following paragraph –

“(1) A scheduled public authority that has been requested to supply information may refuse to supply the information if it estimates that the cost of doing so would exceed an amount determined in the manner prescribed by Regulations.”.

3 Article 46 amended

In Article 46 of the FOI Law –

(a) after paragraph (1)(d) the word “or” shall be deleted;

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- (b) at the end of paragraph (1)(e) for the full-stop there shall be substituted the word “; or”;
 - (c) after paragraph (1)(e) there shall be added the following sub-paragraph –
 - “(f) taken in compliance, or purported compliance, with any requirement of Part 2 of the Law including Regulations made under that Part, such decision being one that is not otherwise referred to in sub-paragraphs (a) to (e).”;
 - (d) in paragraph (2) after the words “being given” there shall be inserted the words “or, if later, within 6 weeks of the date the applicant has exhausted any complaints procedure provided by the scheduled public authority.”.

4 Article 47 amended

After Article 47(5) of the FOI Law there shall be inserted the following paragraph –

“(5A) Subject to paragraph (5), the Royal Court shall –

- (a) allow the appeal;
- (b) substitute for the Information Commissioner’s decision such other decision that the Information Commissioner could have made; or
- (c) dismiss the appeal.”.

5 Article 48 amended

In Article 48 of the FOI Law –

- (a) in paragraph (1) for the words “one of the statements set out in paragraph (2) and the authority has not supplied the information in accordance with the notice” there shall be substituted the words “one or more of the statements set out in paragraph (2) and the authority has not complied with the notice”;
- (b) at the end of paragraph (2)(e) for the full-stop there shall be substituted a semi-colon;
- (c) after paragraph (2)(e) there shall be added the following sub-paragraph –
 - “(f) that the authority has not complied with the requirements of Part 2 of the Law, namely the requirement [insert a description of the requirement and the applicable provision setting out the requirement in Part 2 or in Regulations under that Part] and that the authority must comply with the requirement.”;
- (d) in paragraph (3) for the words “should supply the information requested in accordance with the notice but has failed to do so” there shall be substituted the words “has failed to comply with one or more requirements in the notice”;
- (e) for paragraph (4) there shall be substituted the following paragraphs –
 - “(4) The Court may inquire into the matter and hear –

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- (a) any witness who may be produced against or on behalf of the scheduled public authority; and
 - (b) any statement that may be offered in defence.
- (5) After inquiring into the matter, the Court may do either or both of the following –
- (a) deal with the scheduled public authority as if it had committed a contempt of court; and
 - (b) substitute for the Information Commissioner’s notice such other notice that the Information Commissioner could have made.”.

6 Article 54 amended

In Article 54 of the FOI Law –

- (a) the existing text shall be numbered paragraph (1);
- (b) after paragraph (1) there shall be added the following paragraphs –
 - “(2) Without prejudice to the generality of paragraph (1), such rules of court may, in particular, make provision for –
 - (a) enabling directions to be given to withhold material or restrict disclosure of any information relevant to proceedings under Article 47 from any party (including any representative of any party) to the proceedings; and
 - (b) notwithstanding Article 47(6), enabling the court to conduct such proceedings in the absence of any person, including a party to the proceedings (or any representative of a party to the proceedings).
- (3) In making rules of court described in paragraph (2), regard shall be had to –
 - (a) the need to secure that the decisions that are the subject of such proceedings are properly reviewed; and
 - (b) the need to secure that disclosures of information are not made where they would be contrary to the public interest.”.

PART 2

DATA PROTECTION (JERSEY) LAW 2005 AMENDMENTS

7 Interpretation

In this Part, “Data Protection Law” means the Data Protection (Jersey) Law 2005².

8 Article 1 amended

In Article 1 of the Data Protection Law –

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- (a) in paragraph (1), in the definition “data” the word “or” after sub-paragraph (b) shall be deleted and after sub-paragraph (c) there shall be added the following sub-paragraph –
- “, or
- (d) is recorded information held by a scheduled public authority and does not fall within any of sub-paragraphs (a) to (c);”;
- (b) after the definition “sensitive personal data” there shall be inserted the following definition –
- “ ‘scheduled public authority’ has the same meaning as in the Freedom of Information (Jersey) Law 2011³;”;
- (c) after paragraph (1) there shall be inserted the following paragraph –
- “(1A) In sub-paragraph (d) of the definition ‘data’ in sub-paragraph (1), the reference to information ‘held’ by a scheduled public authority shall be construed in accordance with Article 3 of the Freedom of Information (Jersey) Law 2011⁴ (as if that Article referred to a scheduled public authority).”.

9 Article 9A inserted

After Article 9 of the Data Protection Law there shall be inserted the following Article –

“9A Unstructured personal data held by scheduled public authorities

- (1) In this Article, ‘unstructured personal data’ means any personal data falling within sub-paragraph (d) of the definition of data in Article 1(1).
- (2) A scheduled public authority is not obliged to comply with Article 7(1) in relation to any unstructured personal data unless the request under that Article contains a description of the data.
- (3) Even if a request contains a description of data as referred to in paragraph (2), a scheduled public authority is not obliged to comply with Article 7(1) in relation to unstructured personal data if the authority estimates that the cost of complying with the request in so far as it relates to those data would exceed a limit specified by the States in Regulations.
- (4) Paragraph (3) does not exempt the scheduled public authority from its obligation under Article 7(1) to inform an individual whether unstructured personal data of which that individual is the data subject are being processed by or on behalf of the data controller unless the estimated costs of complying with that obligation alone in relation to those data would exceed a limit specified by the States in Regulations.
- (5) Any estimate for the purposes of this Article must be made in accordance with Regulations under Article 16 of the Freedom of Information (Jersey) Law 2011⁵ (whether or not any limit specified in Regulations for the purposes of this Article is the same as any

amount determined in accordance with Regulations under Article 16).”.

10 Article 33A inserted

After Article 33 of the Data Protection Law there shall be inserted the following Article –

“33A Manual data held by scheduled public authorities

- (1) Personal data falling within paragraph (d) of the definition ‘data’ in Article 1(d) are exempt from –
- (a) the first, second, third, fourth, fifth, seventh and eighth data protection principles;
 - (b) the sixth data protection principle except so far as it relates to the rights conferred on data subjects by Articles 7 and 14;
 - (c) Articles 10 to 13;
 - (d) Part 3; and
 - (e) Article 55.”.

11 Article 56 amended

In Article 56 of the Data Protection Law, after paragraph (6) there shall be inserted the following paragraph –

“(6A) A record is not a relevant record to the extent that it relates, or is to relate, only to personal data falling within paragraph (d) of the definition ‘data’ in Article 1(1).”.

PART 3

CLOSING

12 Citation and commencement

This Law may be cited as the Freedom of Information and Data Protection (Amendments) (Jersey) Law 2014 and shall come into force on the same date as the Freedom of Information (Jersey) Law 2011⁶ comes into force.

L.-M. HART

Deputy Greffier of the States

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- 1* *L.17/2011*
 - 2* *chapter 15.240*
 - 3* *L.17/2011*
 - 4* *L.17/2011*
 - 5* *L.17/2011*
 - 6* *L.17/2011*