



**OFFICE OF THE
INFORMATION
COMMISSIONER**

GUIDANCE: **REGISTRATION OF CONTROLLERS AND PROCESSORS**



Guidance Note

Registration of Controllers and Processors

Article s17 and 18 Data Protection Authority (Jersey) Law 2018
Data Protection (registration and Charges)(Jersey) regulations 2018

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INTRODUCTION

1. The Data Protection (Jersey) Law 2018 (“DPJL”) is based around seven principles of ‘good information handling’. These principles give people (the data subjects) specific rights in relation to their personal information and place certain obligations on those organisations that are responsible for processing it.
2. The Data Protection Authority (Jersey) Law 2018 (“DPAJL”) establishes the Data Protection Authority (the **Authority**) which replaces the Office of the Information Commissioner upon implementation of the laws on 25 May 2018. The Information Commissioner (the **Commissioner**) is the Chief Executive Officer of the Authority.
3. This is part of a series of guidance to help organisations fully understand their obligations, as well as to promote good practice.
4. The DPAJL requires all controllers and processors established in Jersey who process personal data to register, with the Authority and to pay a fee (subject to certain exemptions). Under the DPAJL anyone who does not comply with these provisions is guilty of a criminal offence and subject to a fine.
5. The Data Protection (Registration and Charges) (Jersey) Regulations 2018 (the **Transitional Registration Regulations**) make provision with respect to the registration of controllers and processors by the Authority, and renewal of the registration of controllers registered under the Data Protection (Jersey) Law 2005 up to and until 25 May 2019 (the **Transitional Period**). These Transitional Registration Regulations maintain key features of the Data Protection (Notification) (Jersey) Regulations 2005, though there are some differences. The Transitional Registration Regulations:
 - a. require all data controllers and processors to register with the Authority;
 - b. maintain exemptions from annual renewal charges for processing for staff administration and accounts and record-keeping only, and by not-for-profit organisations;
 - c. maintain annual renewal charges at £50; and
 - d. govern other administrative matters, including the maintenance by the Authority of the register of data controllers and processors.
6. This guidance will explain the various provisions concerned with registering as a controller or a processor.
7. It will be reviewed once the Transitional Period has ended.

OVERVIEW

8. This guidance applies to data controllers and processors, as defined under Art.1 (1) of the DPJL.
9. Registered controller means a controller registered under Art.17 of the DPAJL and registered processor means a processor registered under Art.17 of the DPAJL.
10. This guidance note contains the Commissioner's guidance on registration under the DPAJL. Registration is a statutory requirement and every controller and processor must register with the Authority. Any failure to do so is a criminal offence.
11. Registration is a process by which a controller or processor informs the Commissioner of certain details about their processing of personal information. These details are then used by the Commissioner to make an entry describing the processing in a register (the **Register**) that is available to the public for inspection.

TRANSITIONAL PROVISIONS

Transitional provisions

12. The DPAJL has certain transitional provisions set out at Schedule 2 thereof. One of the transitional provisions relates to registration and separate transitional provisions apply to controllers and processors.
13. Please see our guidance note “Transitional Provisions” for further information as to how the transitional provisions might affect you.
14. Any data controller who, prior to commencement of the registration regime was notified under the 2005 Law is exempt from the prohibition against processing personal data without registration which is contained in Art.17 of the DPAJL. The DPAJL provides that this exemption lasts until the end of the data controller’s original notification period.

Example

A data controller notified on 24 May 2018. The controller does not need to register under the DPAJL until 24 May 2019 (their notification lasting for a year pursuant to Art.17 of the 2005 Law).

- a. Once the transitional exemption from registration ceases to apply, data controllers must register in accordance with the DPAJL.
 - b. If a data controller had lodged an application for notification under the 2005 Law but for which an entry in the Register had not been created by the commencement date of the DPAJL, will be determined by the Commissioner as if it were an application made under Art.17 of the DPAJL.
15. Processors do not need to register until 23 November 2018 (26 weeks from the day on which the DPAJL comes into force).
 16. Notwithstanding the exemption from registration afforded to existing notified data controllers and to processors who will be captured for the first time, such users may voluntarily register if they wish to do so. If they do choose to register voluntarily during the transitional period then the Commissioner considers that they will lose their entitlement to exemption from the prohibition against processing personal data without registration.

WHAT IS REGISTRATION?

What is Registration?

17. Registration is the process by which data controllers and data processors (organisations that process personal data on behalf of controllers) inform the Authority of certain details about their processing of personal information. These details are used by the Commissioner to make an entry describing the processing in a register that is available for inspection by the public.
18. The principal purpose of registration is transparency and openness. It is a basic principle of data protection that the public should know (or should be able to find out) who is processing their personal information as well as other details about the processing (such as why the processing is taking place).
19. The Register will not contain very detailed information about information processed by a controller or processor. The aim is to keep the content at a general level, with sufficient detail to give an overall picture of the processing being carried out.

Who is required to Register?

20. All data controllers and processors are required to register with the Authority and may not process personal data unless they are so registered, unless an exemption applies:

“A controller or processor established in Jersey must not cause or permit personal data to be processed without being registered as a controller or processor...”¹

21. You do not need to register if:
 - a. The information you hold is not “personal data”²;
 - b. You are holding information for domestic purposes only; or
 - c. Your process data (as a controller or processor) purely for the purpose of safeguarding national security³.
22. Any data processor processing data on behalf of a data controller in one of these categories, must also register.
23. At the end of the transitional period (i.e. from 25 May 2019) there will be a tiered registration fee. The tiered structure will be based on the level of risk and the controller or processor will need to assess what tier they fall into and hence the fee they are required to pay. More information on the fees for the various tiers will be provided in due course.

How do I register?

24. You can register by online registration and all new customers will be provided a registration number at the point of registration together with a security number which must be quoted each time you contact us about your Register entry. You should keep this number safe.
25. Once you have completed the online registration we will review the submission to make sure that all the necessary information has been provided and once approved, the submissions will go “live” on the Register.
26. You will receive a notification from us when your registration is live on the Register.

¹ Art.17(1) of the AL

² Personal data is defined in Art.2(1) of the JDPL as “any data relating to a data subject”. This would include pseudonymised data (data which has been anonymised to the extent that the data subject cannot be identified)

³ Art.41 of the JDPL

What is the fee for registration?

27. Under the 2018 Regulations and in line with the transitional relief afforded under the DPAJL, a £50 fee is payable by controllers and processors at the time of registration save for in respect of certain controllers who do not need to pay a fee.
28. You may pay online, by cash in person or you can send us a cheque. If you choose to pay us by cheque, please make it out to the Treasurer of the States, write your registration number on the back of the cheque and send it to:

Office of the Information Commissioner
Brunel House
Old Street
St Helier
Jersey JE2 3RU

When do I have to renew my registration?

29. You need to renew your registration every year and your entry will automatically expire unless it is renewed. It is very important that we receive payment for renewal prior to the expiry of your Register entry.
30. Prior to the expiry of your registration you will receive an automatic notification reminding you that your registration is coming up for renewal. All controllers and processors are required to register and any failure to do so will constitute a criminal offence.
31. You will be asked whether there have been any changes to the controller/processor name or the address/contact details.

What if I need to change my registration?

32. You must tell us about any changes as soon as possible and you must do it by logging onto your Registration, and in any event within 28 days of the change. Failure to keep your registration entry up-to-date is a criminal offence. Changes can be made free of charge.
33. If you no longer need to be registered you must write to us explaining why registration is no longer required. We may contact you if we need further information.

Changes of legal entity

34. A Register entry is non-transferable from one controller or processor to another. Therefore, if there is a change in the legal entity of the data controller or processor a new entry must be made to the Register. You will not receive any refund on your previous registration.

Is the Register published?

35. Yes. The Register is published on our website, www.dataci.je. You will not be sent a copy of your Register entry but you can print a copy off from our site if you so wish.

COMPLETING THE REGISTRATION FORM

36. Pursuant to Art.17(3), the application for registration must be:

- a. In the form required by the Authority (dealt with above); and
- b. Include any information required by the Authority.

37. The information required by the Authority is as follows:

- a. Type of organisation;
- b. The purpose of the processing;
- c. General description of the type of processing;
- d. The categories of data subjects affected by the processing;
- e. The type of data being processed (the data class), including specifically whether or not any special category data is being processed;
- f. Any recipients of the data;
- g. Information as to whether or not data is transferred outside the Bailiwick of Jersey or EEA; and
- h. Security measures that have been put in place;
- i. Name;
- j. Address;
- k. Contact details.

38. *Type of organisation*

- a. The first page of the online registration form lets you tell us what type of organisation you are (or to create your own) i.e. legal profession, public authority etc.

39. *Types of "purpose"*

- a. Below is a list of standard purposes and purpose descriptions for use on register entries: wherever possible, these must be used. If none apply, you may use your own words to describe your purposes.
 - i. Financial
 - Auditing and related services: The provision of an audit where such an audit is required by statute.
 - Insurance administration: The administration of life, health, pensions, property, motor and other insurance business. This applies only to insurance companies doing risk assessments, payment of claims and underwriting. Insurance consultants and intermediaries should use the provision of financial services and advice purpose.
 - Financial services and advice (including investments): The provision of services as an intermediary in respect of any financial transactions including mortgage and insurance broking.
 - Accounting, bookkeeping and related services: The provision of accounting services. Keeping accounts relating to any business or other activity carried out by the data controller or deciding whether to accept any person as a customer or supplier or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by him or to him in respect of those transactions, or for the purpose of making financial or management forecasts to assist him in the conduct of any such business or activity.
 - Pensions administration: The administration of funded pensions or superannuation schemes. Data controllers using this purpose will usually be the trustees of pension funds.
 - Grant and loan administration.

ii. Public Authority

- Policing and administration of justice: The prevention and detection of crime; apprehension and prosecution of offenders; protection of life and property; maintenance of law and order; also rendering assistance to the public in accordance with force policies and procedures. Internal administration and management of courts of law or tribunals and discharge of court business.
- Public authority ,benefits, grants and loans] administration: The administration of welfare and other benefits. You will be asked to indicate the type(s) of benefit you are administering.
- Planning and development control.
- Assessment and collection of taxes and other revenue: Assessment and collection of taxes, duties, levies and other revenue. You will be asked to indicate the type of tax or other revenue concerned.
- Consumer protection and trading standards.
- Fire prevention and control.

iii. Health and services

- Property and accommodation services: The management and administration of land, property and residential property and the estate management of other organisations.
- Water and drainage services.
- Provision of healthcare: The provision and administration of patient care.
- Social work and pastoral care. The administration of pastoral care by a vicar or other minister of religion.

iv. Customers and staff

- Personnel, employee and payroll administration: appointments or removals, pay, discipline, superannuation, work management or other personnel matters in relation to the staff of the controller or processor.
- Consultancy and advisory services: Giving advice or rendering professional services. The provision of services of an advisory, consultancy or intermediary nature. You will be asked to indicate the nature of the services which you provide.
- Customer and client administration.
- Advertising, marketing or public relations: Advertising or marketing the data controller's own business, activity, goods or services, and promoting public relations in connection with that business or activity, or those goods or services.
- Purchase and supplier information.
- Membership administration.

v. Legal

- Legal services: The provision of legal services, including advising and acting on behalf of clients.
- Credit referencing and debt administration: The provision of information relating to the financial status of individuals or organisations on behalf of other organisations. This purpose is for use by credit reference agencies, not for organisations who merely contact or use credit reference agencies. The tracing of consumer and commercial debtors and the collection on behalf of creditors. The purchasing of consumer or trade debts, including rentals and instalment credit payments, from business.

vi. General admin

- Education, training and administration: The provision of education or training as a primary function or as a business activity.
- Charity and voluntary work: Establishing or maintaining membership or support for a body or association which is not established or conducted for profit, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it. The provision of goods and services in order to realise the objectives of the charity or voluntary body. Fundraising.
- Licensing and registration: The administration of licensing or maintenance of official registers.

vii. Other

- Research and statistical analysis (including electronic census): Research in any field, including market, health, lifestyle, scientific or technical research.
- Constituency casework: The carrying out of casework on behalf of individual constituents by elected representatives.
- Electoral registration and canvassing: The seeking and maintenance of support amongst the electorate by the data controller.
- Environmental health.
- CCTV and crime prevention: Crime prevention and detection. This includes the use of CCTV systems which are used for this purpose.
- Trading in personal information: The sale, hire, exchange or disclosure of personal information to third parties in return for goods/services/benefit.
- Private investigation: The provision on a commercial basis of investigatory services according to instruction given by clients.
- Advertising, marketing and public relations for others: Public relations work, advertising and marketing, including host mailings for other organisations and list broking.

b. [Some forms of processing do not need to be noted on your Register entry. This includes:

- i.* Where the processing is purely only for the “special purposes”. Special purposes means:
 - academic purposes;
 - the purpose of journalism;
 - artistic purposes; or
 - literary purposes.
- ii.* Where the processing is necessary for the purpose of safeguarding national security.]

40. *General description of the processing of personal information*

- a.** Each registration must include a general description of the processing of personal information carried out.
- b.** On the Register, this description is structured by reference to the purposes for which data is being processed.

41. *Data classes*

- a.** The following is a list of standard descriptions of data classes. Data classes are the types of personal information that is being or is to be processed.

i. Standard information

- Employment details: Included in this category is any information relating to the employment of the data subject. Examples are employment and

career history, recruitment and termination details, attendance records, health and safety records, performance appraisals, training records and security records.

- Education and training details: Included in this category is any information which relates to the education and any professional training of the data subject. Examples are academic records, qualifications, skills, training records, professional expertise, and student and pupil records.
- Family, lifestyle and social circumstances: Included in this category is any information relating to the family of the data subject and the data subject's lifestyle and social circumstances. Examples are details about current marriage and partnerships and marital history, details of family and other household members, habits, housing, travel details, leisure activities and membership of charitable or voluntary organisations.
- Goods or services provided: Included in this category is any information relating to goods and services that have been provided. Examples are details of the goods or services supplied, licences issued, agreements and contracts.
- Personal details: Included in this category is any information that identifies the data subject and their personal characteristics. Examples are name, address, contact details, age, sex, date of birth, physical description, and any identifier issued by a public body, eg National Insurance number.
- Financial details: Included in this category is any information relating to the financial affairs of the data subject. Examples are income, salary, assets and investments, payments, creditworthiness, loans, benefits, grants, insurance details and pension information.

ii. The following classes of data have been designated as special category data⁴.

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic or biometric data
- Physical or mental health or condition
- Sexual life or sexual orientation
- Offences (including alleged offences)
- Criminal proceedings, outcomes and sentences (including alleged criminal activity)

42. Data subjects

- a. The following is a list of standard descriptions of data subjects. A data subject is an individual about whom personal information is held.
- i. Customers and clients
 - ii. Patients
 - iii. Advisers, consultants and other professional experts
 - iv. Students and pupils
 - v. Complainants, correspondents and enquirers
 - vi. Suppliers
 - vii. Members or supporters
 - viii. Relatives, guardians and associates of the data subject
 - ix. Offenders and suspected offenders
 - x. Staff including volunteers, agents, temporary and casual workers

All of the above categories include current, past or prospective data subjects.

⁴ Art.1(1) of the JDPL

43. Recipients

- a. The following is a list of standard descriptions of recipients. Recipients are individuals or organisations to whom the data controller intends or may wish to disclose data. It does not include any person to whom the data controller may be required by law to disclose data in any particular case, for example if required to do so by the police under a warrant.
 - i. Data subjects themselves
 - ii. Ombudsmen and regulatory authorities
 - iii. Suppliers and providers of goods or services
 - iv. Other companies in the same group as your organisation
 - v. Current, past or prospective employers of the data subject
 - vi. Political organisations and representatives
 - vii. Employees and agents of the your organisation
 - viii. Persons making an enquiry or complaint
 - ix. The media
 - x. Credit reference agencies
 - xi. Education, training establishments and examining bodies
 - xii. Voluntary, charitable and religious organisations
 - xiii. Financial organisations and advisers
 - xiv. Police forces
 - xv. Debt collection, tracing and private investigation agencies
 - xvi. Another organisation acting on your behalf (data processors)
 - xvii. Survey and research organisations
 - xviii. Trade, employer associations, and professional bodies
 - xix. Relatives, guardians or other persons associated with the data subject
 - xx. Business associates and other professional advisers
 - xxi. Healthcare, social and welfare advisers or practitioners
 - xxii. Government departments
 - xxiii. Courts or tribunals
 - xxiv. Traders in personal data

44. Transfers of personal data

- a. Controllers and processors must indicate whether or not personal data is transferred outside the Bailiwick of Jersey or the European Economic Area (EEA)⁵. The choices are:
 - i. None outside Bailiwick of Jersey or EEA;
 - ii. Worldwide⁶.

45. Security statement

- a. Art.8(1)(f) of the DPJL states that controller must ensure that the processing of personal data in relation to which the controller is the controller complies with the data protection principles, namely that data are:

“...processed in a manner that ensures appropriate security of the data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organizational measures “integrity and confidentiality””

⁵ At the time of publication the countries in the EEA are Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, , Norway Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

⁶ This would include Guernsey and other countries that have been awarded adequacy status by the European Commission.

- b. Controllers and processors must give a general description of the measures to be taken for the purpose of protecting against unauthorised or unlawful processing of personal information and against accidental loss or destruction of or damage to personal information. This information will not appear in the Register. You may do this by answering (with yes or no answers) a series of pre-set questions on our website. A brief explanation of the terms is set out below:
- i. *“Do you have policies and procedures in place for ensuring the security of customer and staff information?”*: This sets out the management commitment to information security within the organisation and provides a clear direction on responsibilities and procedures.
 - ii. *“Do you have controls for access to information by your staff?”*: This would include procedures for authorising and authenticating users, as well as software controls for restricting access, and techniques for protecting data (such as encryption). (“Controlling”) includes monitoring and logging access so as to assist in detecting and investigating security breaches when they occur.)
 - iii. *“Do you have a business continuity plan?”*: This is a contingency plan that identifies the business functions and assets (including personal information) that would need to be maintained in the event of a disaster, and sets out the procedures for protecting them and restoring them if necessary.
 - iv. *“Do your staff receive training on data protection and information security?”*: Do your staff understand the importance of protecting personal data? Are they familiar with your organisation’s privacy and security policy? Can they put security procedures into practice? Do you provide appropriate initial (for new staff) and refresher training?
 - v. *“Do you have a process for detecting, investigating and handling information security breaches?”*: Do you have a policy for dealing with information breaches if a breach occurs? Do your staff know what to do in the event of a security breach? Do you know how to report a breach to the Authority? (See our separate guidance note on Breach Reporting.)

46. Name

- a. The name you provide must be the correct legal title of the individual or organisation.

Example

Sole traders: provide full name of the individual e.g. Adam Barney Cross

Partnerships: provide the trading name of the firm e.g. Smith & Co (you do not have to provide the names of the individual partners).

Limited or public liability companies: provide the full name of the company e.g. ABC Limited (not the trading name). You cannot submit one single registration for a group of companies. Each company must be registered separately.

Voluntary bodies: provide the full name by which you are known to the public.

47. Address

- a. If you are registered with the Jersey Financial Services Commission please provide the address used with that registration (the registered office) and your company registration number.
- b. In all other cases, you must provide the address of your principal place of business.
- c. If there is no physical place of business (i.e. in the case of a voluntary body) please provide the address of the person completing the registration form.
- d. If you are an agent/representative in Jersey (applicant is from outside the Bailiwick) then you will need to include the name and address of the agent/representative.

48. *Contact details*

- a. Please provide: name of point of contact (or DPO if you have one); address, telephone number (direct and main switchboard, if applicable) and email address.
- b. These details will be used by us for all correspondence in connection with your registration. They will not appear on the public register.
- c. These details may be altered at any time by logging in to your account.

MORE INFORMATION

49. Additional guidance is available on our guidance pages with more information on other aspects of the DPJL and DPAJL.
 50. This guidance has been developed drawing on the Commissioner's experience. It will be reviewed and considered from time-to-time in line with new decisions by the Commissioner and/or the Jersey courts.
 51. It is a guide to our general recommended approach, although each individual case will likely be different and will be decided on the particular circumstances of the case.
 52. If you need any further information about this, or any other aspect of the DPJL or DPAJL, please contact us or visit our website www.dataci.je.
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