

# GUIDANCE NOTE

## **Registration & Charges**

Articles 17 and 18 of the Data Protection Authority (Jersey) Law 2018 and the Data Protection (Registration and Charges) (Jersey) Regulations 2018



# CONTENTS

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<b>Introduction</b>	<b>3</b>
<b>Overview</b>	<b>4</b>
<b>What is registration?</b>	<b>5</b>
<b>Registration charges?</b>	<b>8</b>
<b>More information</b>	<b>10</b>



# INTRODUCTION

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1. The Data Protection (Jersey) Law 2018 (**DPJL**) is based around six 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**) established the Data Protection Authority (the **Authority**) which replaced 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. Under the DPAJL anyone who does not comply with these provisions is guilty of a criminal offence and subject to a fine.
5. The DPAJL also requires certain controllers and processors to pay a fee (subject to certain exemptions) (the **Registration Fee**). The Data Protection (Registration and Charges) (Jersey) Regulations 2018 (the **2018 Regulations**) (as amended by the Data Protection (Registration and Charges) (Amendment) (Jersey) Regulations 2019) (the **Amendment**) set out the basis upon which the Registration Fee is charged to controllers and processors. The Registration Fee an organisation will be required to pay will depend on a number of factors including the number of full-time equivalent employees, its turnover for the preceding year and the type of data processed. Certain exemptions may apply to certain types of organisation.
6. This guidance will explain the various provisions concerned with registering as a controller or a processor and also about registration fees and how they will be calculated.



# OVERVIEW

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7. This guidance applies to data controllers and processors, as defined under Art.1(1) of the DPJL. 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.
8. Registration is a statutory requirement and every controller and processor must register with the Authority. Any failure to do so is a criminal offence.
9. Any failure to pay a required registration charge will lead to the relevant data controller or processor being de-registered by the Authority. In the event of de-registration, the relevant data controller or processor could not then continue to process any personal data – it is an offence to process personal data without being registered with the Authority.
10. Registration is a process by which a controller or processor informs the Authority of details relating to the organisation undertaking the processing of personal data. These details are then used by the Authority to make an entry in a register (the **Register**). Some of this detail is available to the public for inspection on our website (the **Registry**).



# WHAT IS REGISTRATION?

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## What is Registration?

11. 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 relating to their organisation. These details are used to make an entry in a Register, elements of which are available for inspection by the public via the online Registry.
12. 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.
13. The Register will not contain any detailed information about information processed by a controller or processor. If an individual wants this information, they will need to contact the relevant controller or processor.

## Who is required to Register?

14. All data controllers and processors established in Jersey 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...”<sup>1</sup>

15. You do not need to register if:
  - a. The information you hold is not “personal data”<sup>2</sup>;
  - b. You are holding information as a natural person for purely personal or domestic purposes; or
  - c. You process data (as a controller or processor) purely for the purpose of safeguarding national security<sup>3</sup>.
16. Any data processor established in Jersey processing data on behalf of a data controller must also register.

<sup>1</sup> Art.17(1) of the DPAJL

<sup>2</sup> Personal data is defined in Art.2(1) of the DPJL 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)

<sup>3</sup> Art.41 of the DPJL



### ***How do I register?***

17. 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 and security code safe. You will also need to create a user profile when you register for the **first time**.
18. Once you have completed the online registration your submission will go “live” on the Registry immediately thereafter.

### ***When do I have to renew my registration?***

19. You need to renew your registration every year. Registrations will expire on 31 December each year. The renewal window will open on 1 January and all renewals must be completed by the last day of February. If you fail to renew your registration by this deadline, your registration will expire.
20. Prior to the expiry of your registration you will receive various automatic notifications via email reminding you that your registration is coming up for renewal. Reminders will be sent to the correspondence email address provided by you at the point of initial registration. If this email address changes for whatever reason (e.g. the person whose email address it is leaves the organisation), please ensure it is updated as soon as possible (and, in any event within the 28 days as mandated by law) so that you continue to receive all relevant reminders.
  - The first email reminder will be sent a minimum of 14 days before the renewal window opens (the renewal window opens on the 1 January).
  - The second email reminder will be sent the day the renewal window opens.
  - The third email reminder will be sent to those who have not yet renewed approximately 1 month before closure of the renewal window (the renewal window closes on the last day of February).
  - The final reminder will be sent 7 days prior to closure of the renewal window which is the last day of February.
21. During the renewal process, you will have the opportunity to review the organisation name, address, contact and Data Protection Officer details linked to the Registry entry as well as being given the opportunity to make any amendments, as necessary.

### ***What if I need to amend my registration at any point?***

You must advise us of any changes as soon as possible via our website by logging into your user profile and using the ‘Alter’ button. You must do this within 28 days of the change as required by the DPAJL. Failure to keep your registration entry up-to-date is a criminal offence. Changes can be made free of charge.

22. If you no longer need to be registered you must write (email or letter) to us explaining why registration is no longer required. We may contact you if we need further information.



### ***What happens if I don't register?***

23. Failure to register with the Authority where you are required to do so is a criminal offence.

### ***Changes of legal entity***

24. You can transfer a Register entry from one controller or processor to another. When there is a change in controller/processor, you must share the registration number and security code with the new controller/processor and ensure the relevant entry is updated as soon as possible and at the latest within 28 days of the change.

### ***Is the Register published?***

25. Yes, elements of the Register is published on our [website](#) in the online Registry. The online Registry only publishes the organisation's name, their registration number and the expiry date of the registration together with any registered business names. You will not be sent a copy of your Register entry, but you can print a copy from the Registry if you so wish and you will also be able to download a registration certificate from our website once logged in.



# REGISTRATION CHARGES

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26. On 1st January 2020, the 2018 Regulations were amended and the way in which the registration fee is calculated changed.

27. Under the 2018 Regulations, registered controllers and processors must pay a fee to the Authority, unless they are exempt. The cost of the registration fee depends on the number of full-time equivalent employees, turnover and the categories of personal data processed.

## ***Do I have to pay the registration fee?***

28. Certain organisations do not have to pay a registration fee. These organisations are set out at Schedule 2 of the 2018 Regulations. They are:

- Public authorities;
- Candidates for election (namely a controller who has been admitted as a candidate for public election as an officer in a constituency under Art.18 of the Public Elections (Jersey) Law 2002);
- Provided schools (a school listed at **Schedule 1, Part 1 of the Education (Jersey) Law 1999**);
- Organisations who have ceased to conduct business and whose only processing activity is retaining personal data; and
- Non-profit organisations.

## ***How much do I have to pay?***

29. The annual charge is calculated based on a number of factors:

- a. an organisation's number of full-time equivalent employees (FTE);
- b. its revenue from the preceding year;
- c. whether it is registered with the Jersey Financial Services Commission and is carrying on a financial services business as specified in Schedule 2 of the Proceeds of Crime (Jersey) Law 1999 (other than in paragraphs 6, 8 and 10 of Part B);
- d. Whether the organisation processes special category data and has a past-year revenue of at least £100,000.

30. A FTE means a person employed for more than 27 hours a week;

- a. If an individual is working no more than 9 hours a week, they are treated as 25% of a FTE employee;
- b. If an individual is working more than 9 hours but no more than 18 hours a week, they are treated as 50% of a FTE employee; and
- c. If an individual is working more than 18 hours but not more than 27 hours a week, they are treated as 75% of a FTE employee.

The number of FTE(s) is calculated on the basis of the highest number of posts existing at any time during the past 12 months, ignoring any vacancies. It is not calculated as at the date of registration.



31. The lowest amount an organisation can pay (save for in respect of administered companies as described at para.24) is £70 and the highest is £1,600.
32. If you are an organisation that provides administration services, each organisation that is administered by a “trust company businesses” or “fund services businesses” as defined by Art.1(1) of the Financial Services (Jersey) Law 1998, will also attract an additional £50 fee per administered organisation. Please refer to the **Guidance for Administered Controllers and Processors** for more details.

#### ***When do I need to pay?***

33. For renewing registrations, the Registration Fee is due by the last day of February each year. You will be sent a reminder on 31 January.
34. For new registrations, the Registration Fee is due one month after registration.
35. Payment can be made online at the end of the registration process. If you do not wish to pay online, you can elect to be sent an invoice and all relevant offline payment details will be included on the invoice.

#### ***What happens if I don't pay?***

36. Reg.7(b) of the 2018 Regulations allow the Authority to remove an entry from the Register if the relevant data controller or data processor fails to pay the relevant charge.
37. Following the February payment deadline, if the charge remains unpaid the Authority will write to the data controller or processor advising that the relevant entry will be removed from the Registry and reminding it that it is a criminal offence to process personal data without being registered with the Authority. The Authority will issue a final confirmation once the entry has been removed.



# MORE INFORMATION

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38. Additional guidance is available on our guidance pages with more information on other aspects of the DPJL and DPAJL.
39. This guidance has been developed drawing on the Authority's experience. It will be reviewed and considered from time-to-time in line with new decisions by the Authority and/or the Jersey courts.
40. 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.
41. 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.jerseyoic.org](http://www.jerseyoic.org)

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