

**STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

16<sup>th</sup> May, 2018

**Proposition No. P2018/33**

**Committee for Home Affairs**

**The Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey)**  
**Ordinance, 2018**

**AMENDMENT**

Proposed by: Deputy M M Lowe

Seconded by: Deputy R G Prow

In the Proposition –

- a) immediately after ""The Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018"", insert the following –  
  
", subject to the amendments indicated below", and
- b) immediately after the Proposition, insert the following list of amendments to the Ordinance –

**"Amendments**

1. In each of clauses 12(2)(e) (p. 17), 13(1)(b)(viii) (p. 21) and 21(2)(b) (p. 32) of the Ordinance, delete "and appeals".
2. In clauses 24(1)(d) (p. 35) and 42(4)(d) (p. 65) and paragraph (c) (p. 83) of the definition of "**law enforcement purpose**" in clause 50(1) of the Ordinance, and paragraph 18(1) (p. 107) of Schedule 3 to the Ordinance, for "the security of the British Islands", substitute "national security".
3. In clause 24(2)(a) (pp. 35 - 36) of the Ordinance –
  - (a) in subparagraph (iii), delete "and appeals", and

(b) for subparagraph (iv), substitute –

"(iv) the possibility of bringing an action under section 79 of the Law, and".

4. In clause 50(1) (pp. 77 - 86) –

(a) for the definition of "**the complaints and appeals information**" (p. 79), substitute –

"**the complaints information**" means –

(a) information as to the existence of the right to complain to the Authority under section 67 of the Law, and

(b) the contact details of the Authority," and

(b) insert, in the appropriate alphabetical order, the following definition –

" "**national security**", for the avoidance of doubt, includes the security of the British Islands and the British Overseas Territories,".

### Explanatory Memorandum

This Amendment makes amendments to the draft Ordinance entitled "The Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018" ("**the Ordinance**") to align provisions of the Ordinance more closely with the EU Law Enforcement Directive (Directive (EU) 2016/680) ("**the Directive**") and substitute references to "the security of the British Islands" with references to "national security".

Paragraph 1 of these Amendments amends clauses 12, 13 and 21 of the Ordinance, to remove the requirement for a controller to give data subjects information about rights of appeal under the Law in each of those clauses. The reason is that neither Article 13(1) nor Article 14(1) of the Directive requires data subjects to be given such information in the circumstances set out in those clauses of the Ordinance. Rather, those Articles require the provision of information about the existence of the right to complain to the Authority together with the contact details

of the Authority. Paragraph 4(a) of these Amendments in turn gives effect to the requirement for such information by substituting the definition of "**the complaints and appeals information**" with a definition of "**the complaints information**" that reflects the requirements of Articles 13(1) and 14(1) of the Directive.

Paragraph 2 of these Amendments amends clauses 24, 42 and 50 of the Ordinance to substitute references to "the security of the British Islands" with references to "national security". Paragraph 4(b) of these Amendments in turn inserts a definition of "**national security**" in clause 50(1) of the Ordinance that includes, for the avoidance of doubt, both the British Islands and the British Overseas Territories.

Paragraph 3 of these Amendments amends clause 24 of the Ordinance, so as to remove the requirement for a controller, when restricting the publication of information or provision of information to the data subject, to give data subjects information about rights of appeal under the Law. Instead controllers will be required to give the data subject information about the existence of the right to complain to the Authority and the contact details of the Authority (through the definition of "**the complaints information**" inserted by paragraph 4(a) of these Amendments), as well as information about the possibility of bringing a civil action under section 79 of the Data Protection (Bailiwick of Guernsey) Law, 2017. This is in line with the requirements of Article 15(3) of the Directive.