



GIBRALTAR ASSET MANAGEMENT LIMITED

STOCKBROKERS & INVESTMENT MANAGERS

Privacy Policy

Background

The Gibraltar Data Protection Act 2004 came into force in April 2006. The new Act was drafted in order to transpose into the law of Gibraltar, Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data and to implement Articles 126 – 130 of the Convention of 19 June 1990 applying the Schengen Agreement of 14 June 1985.

The Act applies to data processed wholly or partly by automatic means and to structured manual records, and applies to all personal data processed in Gibraltar regardless of a persons nationality or place of residence.

The European Data Protection Directive states in Article 1:

“In accordance with this directive, Member States shall protect the fundamental rights and freedoms of natural persons, in particular their right to privacy with the respect to the processing of personal data.”

The Act seeks to uphold these rights by ensuring that when a business or organisation lawfully requires to process information about an individual that it does so in a fair, reasonable and responsible manner. The definition of personal data means any information held in whatever form (including paper, recordings, CCTV images as well as computer data) that can identify or importantly could identify a living individual when combined with other information.

Any organisation or business (Data Controller), which uses personal information (data) in any form, including paper, must do so in a manner that is compliant with the Act and, in particular, the principles relating to Data Quality and Security which are as follows:

Summary of the Eight Data Protection Principles

Personal data must be:

1. Used fairly **and** lawfully;
2. Accurate and complete and, where necessary, kept up to date;
3. Used for specific and lawful purposes, in a manner that is compatible with those purposes;
4. Not be processed in a manner incompatible with that purpose or purposes;
5. Adequate, relevant and not excessive;
6. Kept for no longer than necessary;
7. Kept secure to avoid unauthorised or unlawful use and accidental loss, destruction, or damage;
8. Transferred to another country unless that country has an adequate level of protection in relation to the processing of personal data.

Information and Registration Details

Gibraltar Asset Management seeks to uphold the rights of individuals by complying with the law and ensuring that any information it processes is done in a fair, reasonable and responsible manner.

The notification process for Gibraltar Asset Management was completed in August 2007 and an appropriate entry, Registration Number DP 003419 has been made in the Data Protection Register.

Gibraltar Asset Managements' registered purposes are:

- Management of Staff
- Staff Records
- Telephone Calls

Transfer of Data in relation to the Provision of Financial Services is registered as to “EEA Member States” only.

Individual's Rights of Access to Information

The Data Protection Act gives rights to individuals in respect of personal data held about them.

These rights are:

1. Right of access to personal information;
2. Right to prevent processing likely to cause damage or distress;
3. Right to prevent processing for the purpose of direct marketing;
4. Rights in relation to automated decision making (e.g., credit worthiness)
5. Right to take action to rectify, block, erase or destroy inaccurate data;
6. Right to seek compensation for any damage or distress caused by the failure of a Data Controller to comply with the requirements of this Act.

In response to a subject access request an individual is entitled to a copy of the information held about them, both on a computer and as part of a relevant filing system. The individual also has the right to receive a description of why the information is processed, anyone it is disclosed to, and any information available about the source of the data.

All such requests for information must be passed to the Compliance Officer, who has an obligation to respond within 28 days from the receipt of the request.

Gibraltar Asset Management are entitled to ask for a fee of not more than £10 for providing the information and if this is requested the "28 day" rule does not commence until this is received.

Sometimes, giving full access to personal data cannot be done without revealing information about others. **Third party information should not normally be disclosed without the consent of the individuals concerned.**

Gibraltar Asset Management will regularly review the personal data held and remove any data that is no longer required for their purposes. However, before removing such data we must ensure that any statutory obligations with regard to the retention of such information have been met.

If we fail to comply with any of the provisions of the Act, or indeed with a subject access request an individual may lodge a complaint with the Data Protection Commissioner. If the Data Protection Commissioner is unable to arrange, within a reasonable time frame, for the amicable resolution of the complaint, or indeed if either party disagrees with the decision of the Commission, an appeal against it can be made to the Magistrates Court under Section 32(1).

An individual may also seek compensation for distress (alone) where a failure to comply has occurred. Where the Data Protection Commissioner has notified both parties in writing of his decision in relation to a compensation order, and either party is aggrieved, they may under Section 32(5) appeal against it to the Supreme Court.

Exemptions

There are a number of exemptions in the Act relating to various provisions such as the "subject information provisions" and the "non-disclosure provisions" (as defined in section 19). These exemptions may allow data controllers to carry out some processing without having to comply with all of the requirements of the Act.

The broadest exemption is in relation to national security, however, there are also exemptions from other matters. For example certain matters relating to the prevention and prosecution of crime, taxation and regulatory activity. Also data to which the public have a statutory right of access and information disclosed pursuant to a legal requirement in connection with legal proceedings are the subject of exemptions.

If you have any queries in relation to classes of data that may be exempt please contact Compliance, or alternatively, more detailed information can be found by referring to the Data Protection Act 2004 held in the Compliance Library.

Enforcement

If the Data Protection Commissioner considers that Gibraltar Asset Management has contravened the Act in any way they may be served with an enforcement notice.

An enforcement notice will contain a statement of the data protection principle or principles, which have, or are being contravened and the reasons for the Commissioner reaching this conclusion. GAM may appeal to the Supreme Court under Section 32(1) of the requirement specified within such a notice provided this is done within 21 days from the service of the notice on the company.

A person who, without reasonable excuse, fails or refuses to comply with a requirement specified in an enforcement notice shall be guilty of an offence.

Offences

Where an offence under this Act has been committed by a legal person and it is proved to have been committed with the consent, or connivance of, or neglect on the part of any Director, Manager, Secretary or Officer of GAM, that person as well as GAM in its capacity as body corporate shall be guilty of that offence and be liable to;

- i) on summary conviction, to a fine not exceeding level 4 on the standard scale; or
- ii) on conviction on indictment, to a fine not exceeding level 5 on the standard scale.

Examples of such offences are;

- 1) Processing without notification
- 2) Failure to notify changes to the notification
- 3) Failure to comply with an enforcement notice
- 4) Unlawful obtaining of personal data
- 5) Unlawful selling of personal data
- 6) Enforced subject access
- 7) Unlawful disclosure of information

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Member Firm of the London Stock Exchange
Authorised and Regulated by the Financial Services Commission
Registered in Gibraltar with number 18064 and registered office at
World Trade Center, Suite 5.28, Gibraltar