

## Essential guide to the EU Artificial Intelligence Act

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The Artificial Intelligence Act is landmark legislation that has been introduced by the European Union to regulate and provide for harmonised rules on artificial intelligence in the EU.

### What is the purpose of the Artificial Intelligence Act?

The Artificial Intelligence Act (**the Act**) was proposed and developed with the view to:

- ensuring that Artificial Intelligence (AI) systems (such as ChatGPT) used in the EU are safe and respect fundamental rights and EU values
- ensuring legal certainty to facilitate investment and innovation in AI
- enhancing governance and effective enforcement of fundamental rights and safety requirements applicable to AI systems
- facilitating the development of a single market for lawful, safe and trustworthy AI applications

### When does the Artificial Intelligence Act come into operation?

The Act was finalised and endorsed by all EU member states on 2 February 2024, and by the European Parliament on 13 March 2024. The Act was formally adopted by the EU Council on 21 May 2024.

The Act will come into force on the 20<sup>th</sup> day after its publication in the Official Journal of the EU (which is expected to occur in July 2024), and from this date, the provisions of the Act will come into effect as follows:

- Six months later - Chapter I and Chapter II (prohibitions on unacceptable risk AI) will apply

- 12 months later - Chapter III Section 4 (notifying authorities), Chapter V (general purpose AI models), Chapter VII (governance), Chapter XII (confidentiality and penalties) and Article 78 (confidentiality) will apply, with the exception of Article 101 (fines for GPAI providers)
- 24 months later - The remainder of the AI Act will apply, except
- 36 months later - Article 6(1) and the corresponding obligations in this Regulation will apply

## How does the Act regulate the application and risk associated with AI?

The Act classifies the application of AI into three risk categories (from low to unacceptable risk) and addresses AI systems in accordance with their defined risk:

- Minimal risk: largely unregulated (including applications / systems that are not explicitly banned or listed as high-risk)
- High-risk: subject to specific legal requirements (for example CV-scanning tools that rank job applicants)
- Unacceptable risk: prohibited (such as social scoring systems, AI systems that use manipulative or exploitative practices).

## Who should take notice of the Act?

The persons who are most affected by the Act are:

- all providers of high-risk AI applications and systems
- those who intend to place on the market or put into service high-risk AI systems in the EU

This is irrespective of whether the provider is based in the EU or a third country (and also includes third country providers where the output of the high-risk AI system is used in the EU).

## Why is the Artificial Intelligence Act important to Guernsey?

As mentioned above, the Act applies to third country providers where the output of the high-risk AI system is used in the EU. Therefore any providers in Guernsey who operate high-risk systems in the EU will need to comply with the Act.

From a legislative perspective, although the EU is one of the first legislative authorities to

introduce laws to regulate the application of AI, other jurisdictions will no doubt follow suit in the near future. The United Kingdom has already adopted a framework for regulating AI with the following five cross-sectoral principles (for existing regulators to interpret and apply):

- Safety, security and robustness
- Appropriate transparency and explainability
- Fairness
- Accountability and governance
- Contestability and redress

To keep pace with the rapidly advancing technology, Guernsey will need to consider introducing its own laws to regulate how AI is used, applied and potentially developed in the Bailiwick of Guernsey.

## Conclusion

The regulation of high risk / unacceptable risk AI systems is to be welcomed to the extent that it safeguards the consumer and leads to greater transparency concerning its use.

While the EU is leading the way on AI regulation, other jurisdictions like Guernsey and the UK are expected to follow suit with similar legislative enactments.

In the meantime, businesses in Guernsey that develop and / or provide high-risk AI applications and systems that are or will be used in the EU should carefully consider their duties and obligations under the Act.

For further details on the Act and its implementation, please see our article, [Update on Europe's AI Act](#), or for any Guernsey related queries, please contact Advocate De Verneuil-Smith or a member of Ogier's Guernsey office.

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