

Data Protection Regulations 2009

GN No. 22 of 2009

Government Gazette of Mauritius No. 14 of 14 February 2009

THE DATA PROTECTION ACT

Regulations made by the Prime Minister under section 65 of the Data Protection Act after consultation with the Commissioner

1. These regulations may be cited as the **Data Protection Regulations 2009**.
2. In these regulations -

"Act" means the Data Protection Act.
3. (a) An application for registration as data controller under section 34(1) of the Act shall -

(i) be made in the form set out in the First Schedule; and

(ii) be accompanied by the appropriate registration fee specified under the Second Schedule.

(b) Where the data controller meets the conditions for registration under section 34(3) of the Act, the Commissioner shall register him.
4. (a) Every data controller shall, within 3 months before the date of expiry of the registration, make an application for the renewal of the registration.

(b) An application made under paragraph (a) shall -

(i) be made in the form set out in the First Schedule; and

(ii) be accompanied by the appropriate renewal fee specified in the Second Schedule.

- (c) Where the data controller continues to meet the conditions for registration under section 34(3) of the Act, the Commissioner shall renew the registration.
- 5. Any person who, pursuant to section 37 of the Act, wishes to obtain a copy of, or an extract from, an entry from the register, shall pay the appropriate fee specified in the Second Schedule.
- 6. (a) Where a data subject or a relevant person wishes to have access to personal data pursuant to section 41 of the Act, he shall make a request in the form set out in the Third Schedule.

(b) Where the data subject or relevant person referred to under paragraph (a) wishes to have a copy of the personal data, he shall pay the appropriate fee specified in the Second Schedule.
- 7. Any person who wishes to obtain a copy of, or an extract from, the register of approved codes and guidelines kept by the Commissioner under section 56 of the Act, shall pay the appropriate fee specified in the Second Schedule.
- 8. These regulations shall come into operation on 16 February 2009.

Made by the Prime Minister after consultation with the Commissioner, on 03 February 2009.

FIRST SCHEDULE

(regulation 3(a))

Data controller

Application for registration/renewal of registration

(DPO Form 1)

<p>1. Name and address</p> <p>If you are an individual or sole trader, give your surname and first name(s). A partnership must include the name of the firm and the names of each of the partners. In the case of a company, the name of the company must be given, along with a trading name (if different) and the address must be that of the registered office. Persons other than companies must give the address of the principal place of business.</p>	<p>Name/Job Status:</p> <p>.....</p> <p>.....</p> <p>Address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Phone No.:</p> <p>Fax No. :</p> <p>E- Mail:</p>
<p>2. Compliance person</p> <p>Details of individual (if any) who will supervise the application of the Act within your organisation or representative as nominated by you in relation to the personal data with which this application for registration is concerned.</p> <p>Note: This is the person to whom we will address all correspondence in connection with this application for registration.</p>	<p>Name/Job Status:</p> <p>.....</p> <p>.....</p> <p>Address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Phone No.:</p> <p>Fax No. :</p> <p>E- Mail:</p>

3. Description	Use of personal data	Description of personal data
<p>Briefly list/describe each use of personal data, relating to the purpose listed under item 5 below, together with the category and class of personal data (e.g. name, address, date of birth, email address, staff ID number) kept in connection with that use. Give full details also of any personal data kept in relation to the purpose listed under item 5 below, but not normally associated with any of the uses you have listed.</p> <p>Use additional sheets if necessary.</p>		

4. Sensitive data

Other than as kept in respect of your employees in the normal course of personnel administration and not used or disclosed for any other purpose.

Please read section 25 of the Act before filling this Part.

(i) State which of these kinds of personal data you keep:

- ☐ Racial or ethnic origin
- ☐ Political opinion or adherence
- ☐ Religious belief or other belief of a similar nature
- ☐ Membership of a trade union
- ☐ Physical or mental health
- ☐ Sexual preferences or practices
- ☐ Criminal convictions

(ii) State the reason/s for which sensitive data is/are kept with regard to the applications specified under item 3 above (Description):

If you keep sensitive data, please specify under the following headings the safeguards in operation for the protection of the privacy of the data subjects concerned (You do not need to give these details if you do not keep sensitive data.):

Physical safeguards :

Technical safeguards:

<p>5. Purpose</p> <p>Please provide a general, but comprehensive, statement of the nature of your business, trade or profession, and of the purpose for which you keep and process personal data.</p> <p>Please note that where personal data is kept for 2 or more purposes, a separate application for registration in respect of any of those purposes must be made as per section 34(2) of the Act.</p> <p>Use additional sheets if necessary.</p>	<p>(a)</p> <p>(b)</p> <p>(c)</p>
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6. Disclosures	Use of personal data	Recipients
<p>For each use listed under item 3 above, list the persons or bodies (or categories of them) to whom the personal data may be disclosed.</p> <p>Use additional sheets if necessary.</p>		
<p>Note: A disclosure of any personal data to a person specified above must not be made in any manner incompatible with the purpose(s) for which those data are kept. Otherwise, the disclosure will be in contravention of section 26(b), 27 and 29(1) of the Data Protection Act.</p>		

<p>7. Transfers abroad</p> <p>For each application listed under item 3 above, list the countries or territories (if any) to which you transfer, or intend to transfer, personal data directly or indirectly, along with a description of the data to be transferred and the purpose of transfer.</p> <p>Use additional sheets if necessary.</p>	<p>Use of personal data:</p> <table border="0"> <thead> <tr> <th>Country of transfer</th> <th>Description of data</th> <th>Purpose</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table> <p>Use of personal data:</p> <table border="0"> <thead> <tr> <th>Country of transfer</th> <th>Description of data</th> <th>Purpose</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	Country of transfer	Description of data	Purpose																																		Country of transfer	Description of data	Purpose																																	
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<p>8. Public information</p>	<p>Does any of the personal data kept by you consist of information which you are required by law to make available to the public?</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>If, YES, give details:</p> <p>.....</p> <p>.....</p>																																																																								

I certify that the above information is correct and complete and hereby apply to be registered as data controller under the Data Protection Act in respect of the purpose specified under item 5 of this application.

The fee payable is related to the number of people employed:

(Tick as appropriate)

For applicants with less than or equal to 25 employees	
For applicants with more than 25 employees	
In all other cases	

I enclose the prescribed fee of Rs Number of employees:

Signature:

Date:

(*Applicant / Person authorised to sign on behalf of Applicant)

(*Delete whichever is not applicable)

NOTES:

1. It is important that you read "Registration Classification and Guidance Notes for Application" before completing this form.
2. Use this form if you are a data controller who is required to be registered under the Data Protection Act.
3. Please read PART VII of the Act on "Exemptions" before filling this form.
4. Please complete this form in **BLOCK CAPITALS**.
5. Failure to register or renew registration is an offence under the Data Protection Act.
6. Knowingly supplying false information is an offence under the Data Protection Act.
7. It is also an offence to knowingly (a) keep personal data not specified on your applications, (b) keep or use personal data for any purpose, or disclose personal data to any person or body, not described in those applications or (c) transfer personal data to a country or territory not named under item 7 above.

8. Where you change your address, you must notify the Commissioner within 15 days of the change of address.
9. The information provided by you in this application will be kept in a register by the Data Protection Commissioner, in accordance with section 36 of the Data Protection Act, and will comprise the public register which may be inspected by members of the public at any time. No other disclosure of the information will be made.

SECOND SCHEDULE
(regulations 3(a),4(b) 5, 6(b) and 7)

Fees

	Fees (Rs)
1. Data controller registration fee:	
Having not more than 25 employees	1,000
Having more than 25 employees	2,000
In all other cases	800
2. Data controller renewal fee:	
Having not more than 25 employees	750
Having more than 25 employees	1,750
In all other cases	550
3. Other fees:	
Copy of personal data under section 41 of the Act	75
Copy of, or an extract from, an entry from the register under section 37 of the Act	100
Copy of, or an extract from, the register of approved codes and guidelines kept by the Commissioner under section 56 of the Act	350

THIRD SCHEDULE
(regulation 6(a))
Request for access to personal data
(DPO Form 2)

Name of data subject (or relevant person):	
Address of data subject (or relevant person):	
Profession of data subject (or relevant person) or nature of business:	
Name of data controller:	
Address of data controller:	
Nature of business of data controller:	
Type of information required from data controller: (whether the data kept by the data controller includes personal data relating to the data subject, the purposes for which the data are being or are to be processed and the recipients to whom the data are being or are to be disclosed)	

I also wish to have a copy of the personal data and hereby enclose the prescribed fee of Rs for the data controller.

Signature : Date :

(* Applicant/Person authorised to sign on behalf of Applicant).

(* Delete whichever is not applicable).

NOTES:

1. This form must be filled in by the data subject or the relevant person, as the case may be, as described under section 2 of the Data Protection Act, to request any information relating to his personal data kept by the data controller.
2. After filling this form, it must be sent, with the appropriate prescribed fee to the data controller for compliance with the request.
3. Data is information which is capable of being processed manually or by automated means.

4. A “relevant person”, in relation to a data subject, is a person –
 - (a) who has parental authority or has been appointed a guardian by the court where the data subject is a minor;
 - (b) who has been appointed a guardian by the court where the data subject is physically or mentally unfit;
 - (c) in any other case, who is duly authorised by the data subject in writing to make the request.
5. A “data controller” is a person or a group of persons, who decides on the purposes for which personal data are kept and processed.
6. A “data subject” is a living individual who is the subject of personal data.
7. Subject to paragraph 8 below, a data controller may refuse a request for access to personal data if he is not supplied with such information as he may reasonably require in order to satisfy himself as to the identity of the person making the request and to locate the information which the person seeks, or compliance with the request will be in contravention with his confidentiality obligation under any other enactment.
8. If the data controller is unable to comply with a request within 28 days after the receipt of the request, he must, before the expiry of that period, inform the data subject or the relevant person (as the case may be), that he is unable to comply with the request. The data controller must, if required, state the reasons of his inability to comply with the request.

The data controller must, as soon as is reasonably practicable, after expiry of the 28 days, comply with the request.