

In this document underlining indicates new text and striking through indicates deleted text.



DIFC

Data Protection Regulations

(DPR)



DATA PROTECTION REGULATIONS

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DATA PROTECTION REGULATIONS

DATA PROTECTION REGULATIONS

The Dubai International Financial Centre Authority, in exercise of its powers under Article 27 of the Data Protection Law 2007, being DIFC Law No. 1 of 2007 issued by the Ruler, and of all other powers enabling it in that behalf, hereby makes the following Regulations:

These Regulations are made by the Board of Directors of the DIFC Authority pursuant to its powers under Article 6(4)(e) of Law no. (9) of 2004 in respect of the Dubai International Financial Centre on (insert date of Board Resolution).

1. INTRODUCTION

1.1 These Regulations may be cited as the “Data Protection Regulations”.

1.2 Application and interpretation

1.2.1 These Regulations apply to any Person to whom the Law applies.

1.2.2 In these Regulations a reference to the Law is a reference to the Data Protection Law.

1.2.3 Defined terms are identified throughout these Regulations by the capitalisation of the initial letter of a word or phrase. Where capitalisation of the initial letter is not used, an expression has its natural meaning.

1.2.4 Where reference is made in the Regulations to a statutory provision, it is a reference to the provision as amended, and includes a reference to that provision as extended or applied by or under any other provision, unless the contrary intention appears.

1.2.5 Unless the contrary intention appears:

- (a) words in the Regulations importing the masculine gender include the feminine and words importing the feminine gender include the masculine;
- (b) words in the Regulations in the singular include the plural and words in the plural include the singular; and
- (c) references to Chapters, Sections and Schedules are to Chapters, Sections and Schedules of these Regulations.

1.2.6 All other defined terms have the same meaning they have under the Law.



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1.3 References to writing

- 1.3.1** If a provision in these Regulations refers to a communication, notice, agreement or other document 'in writing' then, unless the contrary intention appears, it means in legible form and capable of being reproduced on paper, irrespective of the medium used. Expressions related to writing must be interpreted accordingly.
- 1.3.2** This does not affect any other legal requirements which may apply in relation to the form or manner of executing a document or agreement.



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2. PERMIT FOR PROCESSING SENSITIVE PERSONAL DATA

2.1 Application for permit

2.1.1 A Data Controller which seeks a permit from the Commissioner of Data Protection to Process Sensitive Personal Data pursuant to Article 10 (2) of the Law must apply in writing to the Commissioner of Data Protection setting out:

- (a) the name of the Data Controller;
- (b) the address of the Data Controller;
- (c) the name, address, telephone number and e-mail address of the Person within the Data Controller responsible for making the application for the permit;
- (d) a description of the Processing of Sensitive Personal Data for which the permit is being sought, including a description of the nature of the Sensitive Personal Data involved;
- (e) the purpose of the Processing of the Sensitive Personal Data;
- (f) the identity of the Data Subjects to whom the relevant Sensitive Personal Data relates, or in the event of classes of Data Subjects being affected, a description of the class of Data Subjects;
- (g) the identity of any Person to whom the Data Controller intends disclosing the Sensitive Personal Data;
- (h) to which jurisdictions, if known, such Sensitive Personal Data must be transferred outside of the DIFC; and
- (i) a description of the safeguards put into place by the Data Controller, to ensure the security of the Sensitive Personal Data.

2.1.2 The Data Controller must provide the Commissioner of Data Protection with such further information as may be required by the Commissioner of Data Protection in order to determine whether to grant a permit in accordance with Article 10(2) of the Law.



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3. REJECTION OF AN APPLICATION FOR A PERMIT

- 3.1** The Commissioner of Data Protection may in its absolute discretion refuse to grant an application for a permit to Process Sensitive Personal Data.
- 3.2** Upon refusing to grant a permit, the Commissioner of Data Protection will without undue delay inform the Data Controller in writing of such refusal and provide the reasons for such refusal.



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- 4. GRANTING A PERMIT TO PROCESS SENSITIVE PERSONAL DATA**
- 4.1** The Commissioner of Data Protection may grant an application for a permit to process Sensitive Personal Data with or without conditions it considers necessary.
- 4.2** Upon deciding to grant a permit, the Commissioner of Data Protection will without undue delay inform the Data Controller of such decision and any conditions.



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5. PERMIT FOR TRANSFER OUT OF THE DIFC OF PERSONAL DATA

5.1 Application for permit

5.1.1 A Data Controller who seeks a permit from the Commissioner of Data Protection pursuant to Article 12(1)(a) of the Law for transferring Personal Data to a Recipient which is not subject to laws and Regulations which ensure an adequate level of protection must apply in writing to the Commissioner of Data Protection setting out:

- (a) the name of the Data Controller;
- (b) the address of the Data Controller;
- (c) the name, address, telephone number, fax number and e-mail address of the Person within the Data Controller responsible for making the application for the permit;
- (d) a description of the proposed transfer of Personal Data for which the permit is being sought, including a description of the nature of the Personal Data involved;
- (e) the purpose of the proposed transfer of Personal Data;
- (f) the identity of the Data Subjects to whom the relevant Personal Data relates, or in the event of classes of Data Subjects being affected, a description of the class of Data Subjects;
- (g) the identity of the proposed Recipient of the Personal Data;
- (h) the jurisdiction of the proposed Recipient and a description of the laws and Regulations which apply to the proposed Recipient in respect of Personal Data protection; and
- (i) a description of the safeguards put into place by the Data Controller, to ensure the security of the Personal Data should the relevant transfer take place.

5.1.2 The Data Controller must provide the Commissioner of Data Protection with such further information as is required by the Commissioner of Data Protection in writing in order to determine whether to grant a permit in accordance with Article 12(1)(a) of the Law.

5.2 Rejection of an application for a permit

5.2.1 The Commissioner of Data Protection may in his absolute discretion refuse to grant an application for a permit to transfer Personal Data.



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5.2.2 Upon refusing to grant a permit, the Commissioner of Data Protection will without undue delay inform the Data Controller in writing of such refusal and provide the reasons for such refusal.

5.3 Granting a permit to transfer personal data

5.3.1 The Commissioner of Data Protection may grant an application for a permit to transfer Personal Data with or without conditions it considers necessary.

5.3.2 Upon deciding to grant a permit, the Commissioner of Data Protection will without undue delay inform the Data Controller of such decision and any conditions.

6. RECORDS AND NOTIFICATION

6.1 Records

6.1.1 For the purposes of Article ~~19(3)(a)~~ 19(4)(a) of the Law, a Data Controller must record the following information in relation to its Personal Data Processing operations:

- (a) description of the Personal Data Processing being carried out;
- (b) an explanation of the purpose for the Personal Data Processing;
- (c) the Data Subjects or class of Data Subjects whose Personal Data is being processed;
- (d) a description of the class of Personal Data being processed; and
- (e) a list of the jurisdictions to which Personal Data may be transferred by the Data Controller, along with an indication as to whether the particular jurisdiction has been assessed as having adequate levels of protection for the purposes of Articles 11 and 12 of the Law.

6.2 Guidance

6.2.1 With respect to Regulation 6.1.1(b) the purposes for which Personal Data may be processed will vary but will usually include one or more of the following:

- (a) accounting and auditing;
- (b) administration of justice;
- (c) administration of membership records;
- (d) advertising, marketing and public relations for the Data Controller itself;
- (e) advertising, marketing and public relations for others;
- (f) benefits, grants and loans administration;
- (g) consultancy and advisory services;
- (h) credit referencing;
- (i) debt administration and factoring;



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- (j) education;
- (k) information and data bank administration;
- (l) insurance administration;
- (m) legal services;
- (n) licensing and registration;
- (o) pastoral care;
- (p) pensions administration;
- (q) policing;
- (r) private investigation;
- (s) property management;
- (t) provision of financial services;
- (u) research; and
- (v) staff administration.

6.2.2 With respect to Regulation 6.1.1(c), where Personal Data of multiple Data Subjects is being processed, Data Controllers may instead of listing individual Data Subjects, record the class of Data Subject involved. In such a case, Data Controllers may use the following, or other similar, classes:

- (a) staff, including agents, temporary and casual workers;
- (b) clients and customers;
- (c) suppliers;
- (d) members;
- (e) complainants, correspondents and enquirers;
- (f) relatives and associates of the Data Subject; and
- (g) advisors, consultants and other professional experts.



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6.3 Notifications

6.3.1 For the purposes of Article ~~19(3)(b)~~ 19(4)(b) of the Law, a Data Controller must notify the Commissioner of Data Protection of the following Personal Data Processing operations or set of such operations:

- (a) any Personal Data Processing operation or set of operations involving the Processing of Sensitive Personal Data; and
- (b) any Personal Data Processing operation or set of operations involving the transfer of Personal Data to a Recipient outside of the DIFC which is not subject to laws and Regulations which ensure an adequate level of protection.

6.3.2 When a Data Controller gives a notification to the Commissioner of Data Protection in accordance with Regulation 6.3.1, the notification must contain the following information:

- (a) a general description of the Personal Data Processing being carried out;
- (b) an explanation of the purpose for the Personal Data Processing;
- (c) the Data Subjects or class of Data Subjects whose Personal Data is being processed;
- (d) a description of the class of Personal Data being processed; and
- (e) a statement of which jurisdictions to which Personal Data will be transferred by the Data Controller, along with an indication as to whether the particular jurisdiction has been assessed as having adequate level of protection for the purposes of Articles 11 and 12 of the Law.

6.3.3 The notification required by Regulation 6.3.1 must be provided to the Commissioner of Data Protection:

- (a) ~~immediately~~ as soon as possible and in any event within 14 days upon commencing of the Personal Data Processing referred to in Regulation 6.3.1;
- (b) on every anniversary of the initial notification where the Personal Data Processing is to continue in the subsequent year; and
- (c) ~~immediately~~ as soon as possible upon any Personal Data Processing being processed in a manner different to that described in the initial notification.



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6.4 Time for filing Notifications

Where the Law requires a notification to be filed with the Commissioner of Data Protection, the notification must be filed, in the absence of a time limit being stated in the Law or these Regulations, within 14 days of the date of the happening of the event to which the notification relates.

6.5 Fees

For the purposes of Article 40 of the Law, the Data Controller must pay any applicable fees as required by the Commissioner of Data Protection in respect of matters set out in App1.

7. IMPOSITION OF FINES

7.1 Notice of administrative fines

7.1.1 Where the Commissioner of Data Protection considers that a Data Controller has committed a contravention of any provision referred to in Schedule 2 of the Law in relation to which a fine is stipulated in that Schedule, and decides to impose a fine pursuant to Article 36 of the Law, the Commissioner of Data Protection will give the Data Controller a written Notice of Administrative Fine in accordance with Notice 1 in App2:

- (a) alleging that the Data Controller has committed the contravention and giving particulars of the facts alleged by the Commissioner of Data Protection to constitute a contravention;
- (b) setting out the fine imposed by the Commissioner of Data Protection in respect of the contravention;
- (c) specifying the period during which the fine may be paid; and
- (d) providing an address for filing a Notice of Objection.

7.1.2 Where a fine is imposed under Article 36 of the Law on a Data Controller and the Data Controller pays the fine within the period specified, no proceedings may be commenced by the Commissioner of Data Protection in respect of the relevant contravention, but the Commissioner of Data Protection may take action in relation to any continuing contravention to do or refrain from doing any act or thing.

7.1.3 Where a fine is imposed under Article 36 of the Law and the Data Controller files a Notice of Objection with the Commissioner of Data Protection within the period specified, the Commissioner of Data Protection may not recover the fine as a debt due, but may commence proceedings in the Court for payment of the fine.

7.1.4 A Notice of Objection must be in accordance with Notice 2 of App2 and must set out every matter which the person believes ought to be taken into account by the Commissioner of Data Protection in determining whether to commence proceedings in Court for payment of the fine.

7.1.5 If at the end of the period for payment specified in the notice imposing the fine, the Data Controller has not paid the full amount of the fine and has not filed a Notice of Objection, the Commissioner of Data Protection may apply to the Court for payment of the fine, or so much of the fine as is not paid, and any further orders the Court sees fit for recovery of the fine, including any orders for costs.

7.1.6 The Commissioner of Data Protection may withdraw a notice imposing a fine whenever he considers it appropriate.

8. MEDIATION

8.1 Process of mediation

8.1.1 For the purposes of Article ~~33(4)~~ 34(1) of the Law, a Person may file a claim with the Commissioner of Data Protection by lodging a written notice providing the following information:

- (a) full name and address of the Person making the claim;
- (b) the Data Controller whom the Person believes has contravened the Law;
- (c) a detailed statement of facts which the Person believes gives rise to contravention of the Law; and
- (d) the relief sought by the Person making the claim.

8.1.2 Upon receiving a claim lodged under Article ~~33(4)~~ 34(1) of the Law, the Commissioner of Data Protection may follow such practices and procedures in the mediation of the claim that will, in the view of the Commissioner of Data Protection, lead to the most timely, fair and effective resolution of the claim.

8.1.3 At the conclusion of the mediation process, should the Commissioner of Data Protection determine to issue a direction requiring a Data Controller to do any act or thing in accordance with Article ~~33(3)~~ 34(3) of the Law, the Commissioner of Data Protection will do so by issuing a notice in writing setting out:

- (a) the act or thing that the Data Controller is required to do; and
- (b) the time within which, or before which, the Data Controller is required to do that act or thing.



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App1 FEES

A1.1 Data Protection Table of fees

<u>Upon receipt by the DP Commissioner of Data Protection of:</u>	<u>Category</u>		
	<u>I</u>	<u>II</u>	<u>III</u>
<u>Registration</u>	<u>\$1,000</u>	<u>\$500</u>	<u>\$200</u>
<u>Annual renewal of the registration</u>	<u>\$500</u>	<u>\$250</u>	<u>\$100</u>
<u>Permit to Transfer Personal Data Outside DIFC under Article 12(1)(a) of the Law</u>	<u>\$250</u>	<u>\$150</u>	<u>\$50</u>
<u>Permit to Process Sensitive Personal Data under Article 10(2) of the Law</u>	<u>\$250</u>	<u>\$150</u>	<u>\$50</u>
<u>Amendments to the registrable particulars of the notification</u>	<u>\$100</u>	<u>\$50</u>	<u>\$10</u>
<u>Notification to inform Data Protection Commissioner of not Processing Personal Data</u>	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>
<u>Amendments to contact details</u>	<u>Nil</u>	<u>Nil</u>	<u>Nil</u>

A.1.2 Notes:

- (1) Category I includes entities regulated by the DFSA;
- (2) Category II includes DFSA non-regulated entities, except retail; and
- (3) Category III includes retail entities.



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App2 NOTICES

NOTICE 1

COMMISSIONER OF DATA PROTECTION

NOTICE OF ADMINISTRATIVE FINE PURSUANT TO ARTICLE 36 OF THE DATA PROTECTION LAW

To: *Full name and address of Data Controller receiving Notice*

1. The DIFC Commissioner of Data Protection considers that you have contravened {provisions alleged to have been contravened}.
2. The particulars of the facts giving rise to this contravention/these contraventions are as follows:

{statement of the facts constituting the contravention}.

3. The main purposes of the imposition of an administrative fine is to minimise or offset any benefit a person may obtain from non-compliance with the Data Protection Law, and to promote high standards of conduct and a culture of compliance by deterring Persons from committing contraventions. Taking into account these purposes, the facts set out in paragraph 2 of this Notice of Administrative Fine and the general circumstances of this matter, the following fine is imposed:

{statement of each contravention and fine imposed}.

4. This fine may be paid at any time before 5pm on {date} by forwarding payment to {address}.
5. Should you pay this fine prior to 5pm on {date}, then no proceedings will be commenced by the DIFC Commissioner of Data Protection against you in respect of the contraventions the subject of this notice. However, should you continue to be in contravention of the Law, the DIFC Commissioner of Data Protection may take action in respect of any obligation to do or refrain from doing any act or thing.
6. If you object to the imposition of this fine, you may file a Notice of Objection by sending or delivering such a notice in the form attached, to the following address:

{address}

7. The Notice of Objection must contain every matter you wish the DIFC Commissioner of Data Protection to take into account in determining whether



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to commence proceedings in the Court. The Notice of Objection must be received by the Commissioner of Data Protection before 5pm on {date}. Should you file a Notice of Objection, the Commissioner of Data Protection will take steps with a view to immediately determining whether to commence proceedings against you for payment of the fine.

8. Should you neither pay the full amount of the fine, nor file a Notice of Objection before 5pm on {date}, then the Commissioner of Data Protection may apply to the Court for payment of so much of the fine as remains unpaid, together with costs.
9. Should no Notice of Objection be filed in respect of the imposition of this fine, then the Commissioner of Data Protection may publish details of the matter to which this Notice of Administrative Fine relates.

.....
Name: {Commissioner of Data Protection officer} _____ Date

Delegate of the DIFC Commissioner of Data Protection



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NOTICE 2

NOTICE OF OBJECTION

To: DIFC Commissioner of Data Protection
PO Box 74777
Dubai
United Arab Emirates

1. I refer to the Notice of Administrative Fine, the details of which are as follows:
{Date of Notice of Administrative Fine}
{Data Controller to whom such Notice was addressed}
{Date for lodgement of Notice of Objection as stated in Notice of Administrative Fine}
2. I object to the imposition of the fine or so much of the fine that relates to {the details of aspects disputed}.
3. {If the Data Controller to whom the Notice of Administrative Fine is addressed is not the actual Data Controller: I hold the position of {position} within {Data Controller to whom Notice of Administrative Fine is addressed} and I am authorised on its behalf to file this Notice of Objection}.
4. In determining whether to {commence proceedings in the Court} I believe that the Commissioner of Data Protection ought to take into account the following matters:
{detailed statement of relevant matters}

.....
Name: _____ Date _____