



Republic of Mauritius

Prime Minister's Office

Data Protection Office



DATA PROTECTION



ARTICLE 12 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS OF 1948 PROVIDES:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

ARTICLE 17 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS OF 1977 TO WHICH MAURITIUS IS A PARTY, PROVIDES:

“No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

ARTICLE 22 OF THE MAURITIAN CIVIL CODE PROVIDES:

“Chacun a droit au respect de sa vie privée.”

WHAT IS DATA?

Data represents information which can be processed either by automated means or manually through a structured filing system.

WHAT IS PERSONAL DATA?

It is data which relates to a living individual who can be identified from this data.

WHAT DOES SENSITIVE PERSONAL DATA MEAN?

It is the personal data of a living individual relating to his/her:

- a racial or ethnic origin;
- b political opinion or adherence;
- c religious belief or other belief of a similar nature;
- d membership to a trade union;
- e physical or mental health;
- f sexual preferences or practices;
- g commission or alleged commission of an offence; or
- h proceedings for an offence committed or alleged to have been committed by him/her, the disposal of such proceedings or the sentence of any court in such proceedings.

WHO IS A DATA SUBJECT?

A data subject is a living individual, subject of the personal data.

WHO IS A DATA CONTROLLER?

An individual or an organisation (either public or private), who decides as to how personal data is to be collected and used.

WHO IS A DATA PROCESSOR?

An individual or an organisation (either public or private), who collects or uses the personal data on behalf of the data controller, by virtue of a written contract, but is not an employee of the data controller.

WHAT ARE THE DATA PROTECTION PRINCIPLES?

Personal data shall be processed fairly and lawfully.

Personal data shall be obtained only for any specified and lawful purpose, and shall not be further processed in any manner incompatible with that purpose.

Personal data shall be accurate and, where necessary, kept up to date.

Personal data processed for any purpose shall not be kept longer than is necessary for that purpose or those purposes.

Personal data shall be processed in accordance with the rights of the data subjects under the Data Protection Act.

Appropriate security and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

Personal data shall not be transferred to another country, unless that country ensures an adequate level of protection for the rights of data subjects in relation to the processing of personal data.

IS THE DATA PROTECTION OFFICE A PUBLIC ONE?

Yes.

WHO ARE THE OFFICERS OF THE DATA PROTECTION OFFICE?

The Office shall consist of the Commissioner and two assessors, an investigation unit and an administrative section.

WHAT IS THE MISSION OF THE DATA PROTECTION OFFICE?

The mission of the Data Protection Office is to safeguard the privacy rights of all individuals with regard to the processing of their personal data, in Mauritius.

WHAT ARE THE FUNCTIONS OF THE COMMISSIONER?

She registers all data controllers and data processors in Mauritius, exercises control over all data processing activities in Mauritius, investigates complaints, undertakes research in data processing and information and communication technology, amongst others.

WHO CAN MAKE A COMPLAINT TO THE DATA PROTECTION OFFICE?

Any individual or organisation who feel that their privacy rights with regard to the processing of their personal data may have been prejudiced.

WHAT DOES THE DATA PROTECTION OFFICE DO WHEN IT RECEIVES A COMPLAINT?

It investigates the complaint, unless the complaint is frivolous or vexatious, and as soon as possible, notify the complainant in writing of its decision.

WHAT CAN THE COMPLAINANT DO IF HE SHE IS NOT SATISFIED WITH THE OUTCOME OF THE INVESTIGATION?

The complainant may appeal to the Information and Communication Technologies (ICT) Tribunal if he/she is not satisfied with the decision reached by the Commissioner.

WHAT CAN THE DATA PROTECTION OFFICE DO WHEN A DATA CONTROLLER OR A DATA PROCESSOR CONTRAVENES THE DATA PROTECTION ACT?

Where the Commissioner finds that a data controller or a data processor is acting in violation of the Data Protection Act, she may serve an enforcement notice on the data controller or the data processor requiring him/her to take such steps within the period of time specified in the notice, (which must not be less than 21 days), to remedy the matter and implement the measures recommended by the Commissioner in the enforcement notice.

The data controller or the data processor must then notify the data subject of his compliance with the enforcement notice, not later than 21 days after such compliance.

IS IT AN OFFENCE NOT TO COMPLY WITH THE ENFORCEMENT NOTICE?

Yes. Any person who does not comply with the enforcement notice and does not have a reasonable excuse for not complying will commit an offence, the penalty of which will be a fine not exceeding Rs 50,000 and imprisonment not exceeding 2 years.

WHAT ARE THE OTHER POWERS OF THE COMMISSIONER?

Where the Commissioner is of the view that the investigation reveals the commission of a criminal offence under the Data Protection Act, she can refer the matter to the Police. An authorised officer from the Data Protection Office may prosecute an individual or an organisation, for an offence committed under the Act, subject to the prior consent of the Director of Public Prosecutions.

The Commissioner can also request information from a person whenever it is required for the Commissioner to discharge her functions properly by sending an information notice.

The Commissioner can carry out security checks when she believes that the processing or transfer of data by a data controller or data processor will entail specific risks to the privacy rights of the data subjects to assess the security measures taken by the data controller or data processor prior to the beginning of the processing or transfer.

The Commissioner can also carry out periodical audits of the systems of data controllers and data processors to ensure compliance with the data protection principles.

An officer of the Data Protection Office may enter and search the premises where data processing activities are being carried on.

The officer must show a warrant issued by a magistrate to enter and search the premises.



Contact Details: DATA PROTECTION OFFICE
6th Floor, New Government Centre,
Port Louis

Phone: + (230) 201 3604

Email: pmo-dpo@mail.gov.mu

Website: <http://dataprotection.gov.mu>