

UAE - PERSONAL DATA PROTECTION LAW (PDPL)

DEFINITIONS (ARTICLE 1)

Data or Personal Data:

Any information, in any form, that can identify an individual directly or indirectly, especially through their ID number or personal characteristics such as physical, intellectual, cultural, or economic traits.

Sensitive Personal Data:

Any data directly or indirectly reveals a natural person's family, ethnic origin, political or philosophical opinions, religious beliefs, criminal record, biometric data or any data relating to such person's health and physical, mental, genetic or sexual orientation.

Biometric Data:

Personal Data resulting from processing using a specific technology related to the physical, physiological, or behavioral characteristics of the Data Subjects which allows the identification or confirmation of the unique identification of the Data Subject, such as facial images or fingerprints.

Establishment:

Any company or sole proprietorship established inside or outside the State, including companies which the federal or local government partially or wholly owns or has a shareholding therein.

Data Subject:

The natural person who is the subject of the Personal Data.

Controller:

An establishment or a natural person that has Personal Data, individually or jointly defines the means and purposes of processing of such Personal Data.

Processor:

An establishment or a natural person processes the Personal Data on behalf of the Controller and in accordance with their instructions.

Data Protection Officer:

Any natural or legal person appointed by the Controller or Processor, responsible for ensuring compliance with provisions of Decree by Law.

Pseudonymization:

Post data processing, it could not be possible to associate and attribute such Data with the Data Subject without the use of additional information.

Anonymization:

Processing performed on the Personal Data in such leading to the anonymity of the Data Subject.

Cross-Border Processing:

Dissemination, use, display, transmission, reception, retrieval, sharing or processing of Personal Data outside the State.

SCOPE AND APPLICATION (ARTICLE 2)

2.1 Natural persons who reside in or do business within the state.

2.2 Controllers or Processors that are based in the state and process personal information of natural persons both inside and outside the state.

2.3 Controllers or processors that are based outside the state but process personal information of natural persons who reside in the state.

OBLIGATIONS OF DATA CONTROLLER (ARTICLE 7)

Article 5 of PDPL

The controller shall obtain consent from the Data Subject where consent is the legal basis for such processing in written or in electronic form.

Article 7 of PDPL

The controller shall implement appropriate technical and organizational measures to protect and secure personal data in order to maintain the confidentiality, integrity and availability of personal data

Article 7.3 of the PDPL

The Controller shall maintain a record of processing activities.

Article 9 of the PDPL

The controller must notify the competent authority and inform the data subjects about the data breach.

Article 9 of the PDPL

A controller/processor must designate a data protection officer (DPO)

Article 10(3) of the PDPL

The controller or processor must determine a contact address for the DPO and inform the Data Office of the same

Article 19 of the PDPL

The controller shall provide appropriate and clear ways and mechanisms to enable the Data Subject to communicate and exercise any of the rights.

Article 21 of the PDPL

The controller is required to conduct a Data Protection Impact Assessment (DPIA) prior to the processing.

APPOINTING DATA PROTECTION OFFICER

Article 10 of the PDPL

The Controller and Processor shall appoint a Data Protection Officer in the below cases:

- 1.If the processing of Personal Data includes high risk to the confidentiality and privacy of Personal Data
- 2.If the processing includes systematic and comprehensive assessment of Sensitive Personal Data, including Profiling and Automated Processing
- 3.If processing is carried out on a large volume of Sensitive Personal Data.

The Controller and Processor shall specify the contact details of the Data Protection Officer.



OBLIGATIONS OF THE PROCESSOR

- The Processor shall process the personal data based on the agreement with the Controller and shall provide sufficient guarantee to protect the personal data. (Article 8 of PDPL)
- The Processor shall maintain a special record of Personal Data processed on behalf of the controller including the description of the categories of Personal Data. (Article 8 of PDPL)
- The Processor shall make the Processing according to the purpose and period defined by the controller and notify the Controller if the Processing exceeds the set period. (Article 8 of PDPL)
- The Processor shall erase the Personal Data post processing or post handing it over to the Controller. (Article 8 of PDPL)
- The Processor shall implement technical and organizational measures. (Article 8 of PDPL)

PRINCIPLES OF PROCESSING ARTICLE (5)

- Fairness, Lawfulness and Transparency
- Storage Limitation
- Purpose Minimization
- Data Minimization
- Accuracy
- Confidentiality and Integrity

CROSS-BORDER TRANSFER

Article (22/1) of PDPL

Under UAE PDPL, Cross Border Data Transfer is permissible if the country to which the Personal Data is to be transferred has special legislation on Personal Data Protection including the most important provisions, measures, controls, requirements and rules for protecting the privacy and confidentiality of the Personal Data.

(Article 23 of PDPL)

When there is no adequate protection level available, Personal Data may be transferred outside the State:

- A contract/agreement is required to implement the provisions, measures, controls and requirements set out in the law.
- The contract must impose appropriate measures on the Controller or Processor, enforceable by local supervisory or judicial authorities.
- Data transfers should include provisions for data protection measures.
- Data Subject's explicit consent is required for data transfers outside the State, without any conflict with the security or public interest.
- If the transfer is necessary to fulfill obligations and establish, exercise or defend rights before judicial authorities.
- If the transfer is necessary to enter into or execute a contract between the Controller and Data Subject, or between the Controller and a third party to achieve the Data Subject's interest.
- If the transfer is necessary to protect the public interest.

Penalties and Fines (Article 26 of PDPL)

The Regulatory Authority shall issue a decision specifying the acts that constitute a violation of the provisions of this Law and the implementing Regulations thereof and the administrative penalties to be imposed.

DATA SUBJECT RIGHTS

- Right to Obtain Information – (Article 13 of PDPL)
- Right to Request Transfer of Personal Data- (Article 14 of PDPL)
- Right to correction or erasure of Personal Data- (Article 15 of PDPL)
- Right to Restrict Processing- (Article 16 of PDPL)
- Right to Stop Processing- (Article 17 of PDPL)
- Right to Processing and Automated Processing- (Article 18 of PDPL)