

THE DATA PROTECTION ACT

The Data Protection (Data Controller Registration) Regulations, 2023

In exercise of the power conferred on the Information Commissioner by section 1(3) and (4) of the Data Protection Act, 2020, and every other power hereunto enabling, the following Regulations are hereby made with the approval of the Minister :-

1. These Regulations may be cited as the Data Protection (Data Controller Registration) Regulations, 2023.

2. In these Regulations –

“Register” means the register of data controllers, required to be maintained under section 17 of the Act;

“registration” means registration for the purposes of section 15 of the Act.

3. - (1) Pursuant to section 16(2)(i) of the Act, the following information about a data controller shall be provided as part of the particulars of that data controller for the purposes of section 16(1) of the Act –

- (a) where the data controller uses a trade name in addition to the name by which that data controller is registered under any law, that trade name;
- (b) the principal place of business of the data controller, if different from the data controller’s registered office;
- (c) the primary telephone numbers of the data controller’s registered office and (if different from the registered office) main place of business;
- (d) the email address of the data protection officer appointed by the data controller under section 20 of the Act and, if the data controller has appointed a data controller representative, the email address of the data controller representative;
- (e) the name, address, email address and other relevant contact information, of an

officer of the data controller authorised to represent the data controller in the event that the data protection officer or data controller representative (if any) is unavailable;

- (f) the registration number assigned to the data controller in any case where the data controller's business requires the data controller to be registered under any law;
- (g) the data controller's registration number assigned under section 17D of the Revenue Administration Act (commonly known as a taxpayer registration number);
- (h) the address of each location where the data controller operates its business and, where any of those locations is outside of Jamaica, a statement to that effect;
- (i) the estimated number of data subjects whose personal data the data controller reasonably believes (as at the date of the application) that it will process (which number shall include its employees in addition to its customers);
- (j) a statement –
 - (i) of the amount of annual gross worldwide turnover of the data controller for the immediately preceding financial year or, where the data controller has been operating as a data controller for less than one year, for the portion of the immediately preceding financial year that it has been so operating; and
 - (ii) as to whether the amount stated pursuant to sub-paragraph (i) of this paragraph represents the amount as stated in its audited financial statements;
- (k) where the data controller acts jointly or in common with one or more other data controllers to determine the purpose for which any personal data is processed, the name, address and other relevant contact information of the other data

controllers;

- (l) where any data processors carry out the processing of personal data on behalf of the data controller, the number of such data processors;
- (m) an identification of the specific conditions, from the conditions listed in section 23(1) of the Act (conditions for processing personal data in accordance with the first standard, which requires that personal data must be processed fairly and lawfully), that have been met in order for the personal data processed by the data controller to be processed fairly and lawfully;
- (n) a statement as to whether any sensitive personal data is being or will be processed by the data controller and, if so –
 - (i) a general description of that personal data; and
 - (ii) an identification of the specific conditions, from the conditions listed in section 24(1) of the Act (conditions for processing sensitive personal data in accordance with the first standard, which requires that sensitive personal data must be processed fairly and lawfully), that have been met in order for the sensitive personal data processed by the data controller to be processed fairly and lawfully; and
- (o) a statement as to whether personal data processed by the data controller will be processed for the purposes of automatic decision-making.

(2) A data controller shall have regard to guidelines published by the Commissioner in respect of the supporting documents that will be considered satisfactory to establish the particulars required to be provided under section 16(2) of the Act.

(3) The particulars required to be provided under section 16(2) of the Act shall be submitted in the form and manner specified in regulation 4 –

- (a) for the purposes of first registration; and

- (b) [thereafter, annually for so long as the entity concerned remains a data controller, within the period of thirty days prior to the anniversary date of first registration.]

[(4) A data controller shall promptly notify the Commissioner of any change in the particulars referred to in this regulation, in relation to that data controller, in the form and manner required for the submission of the original particulars (disregarding the requirement for the payment of the fee, if that fee has already been paid).]

4. - (1) The particulars required to be submitted by a data controller under section 16(2) of the Act shall be submitted by completing the electronic form provided on the official website of the office of the Information Commissioner and –

- (a) submitting the form on that website;
- (b) delivering a printed copy of the form to the office of the Information Commissioner by hand or by registered mail; or
- (c) transmitting the form to the office of the Information Commissioner by any means that leaves an electronic trace (for example, facsimile or email).

(2) A form submitted pursuant to paragraph (1) –

- (a) if submitted electronically, shall be in PDF or PDF/A format, bearing the electronic signature of the person who completed the form;
- (b) if submitted in printed format, shall bear the handwritten signature of the person who completed the form; and
- (c) shall be accompanied by proof of payment of the applicable fee specified in the First Schedule.

(3) If, upon an application for registration, the Commissioner requires further information to clarify or complete any of the particulars required under section 16(2) of the Act for the registration of a data controller, the Commissioner may, by notice in writing given to the data controller, require the data controller to provide the

information.

(4) Where in any case any information is not submitted in the form and manner required by these Regulations for the registration of a data controller, the Commissioner is not obligated to process the registration of the data controller until the provisions of these Regulations are complied with.

5. - (1) If the Commissioner is satisfied that the particulars required for registration of a data controller under the Act have been duly furnished in the form and manner required by these Regulations, the Information Commissioner shall issue to the data controller a certificate of registration in the form set out in the Second Schedule.

(2) A certificate of registration issued under paragraph (1) shall not be assignable or transferable.

6. The Commissioner shall cause to be refunded –

- (a) the application fee, in the event of the withdrawal of the application for registration;
- (b) the application fee, in the event that, on considering the application, the Commissioner determines that the registration of the applicant is not necessary by virtue of an order made under section 15(2) of the Act;
- (c) where the data controller notifies the Commissioner in writing, and the Commissioner is satisfied, that the data controller has ceased to process personal data, such portion of the annual registration fee that represents the period remaining in the year to which the fee relates as at the date of the notification.

7. - (1) The Register shall be maintained in an electronic format that facilitates convenient access by the public to the registration particulars required to be submitted for the registration of data controllers.

(2) In addition to the registration particulars submitted by data controllers, the Register may include such other information, as the Commissioner considers fit to

include, relating to the registration and state of compliance with the Act, in respect of each data controller.

- (3) The additional information referred to in paragraph (2) may include –
- (a) the registration number of the data controller;
 - (b) the date of registration of the data controller;
 - (c) reports on assessments conducted by the Commissioner in respect of the data controller’s processing activities relating to personal data;
 - (d) particulars of complaints received by the Commissioner in respect of the data controller;
 - (e) particulars as to enforcement notices, information notices, assessment notices and fixed penalty notices issued to the data controller; and
 - (f) information on the status of any audit, investigation or prosecution of the data controller, in relation to its operations as a data controller.

8. The fees specified in Column 2 of the First Schedule shall apply in relation to the respective matters specified in Column 1 of that Schedule.

FIRST SCHEDULE

(Regulations 4(2) and 8)

Column 1

Column 2

1. First time registration as a data controller –	
(a) where the data controller is a company 	\$25,000.00
(b) where the data controller is a partnership 	\$15,000.00
(c) where the data controller is a sole trader or an individual 	\$7,500.00
2. Registration fee payable in respect of each year after the year of first registration –	
(a) where the data controller is a company 	\$15,000.00

- (b) where the data controller is a partnership \$10,000.00
 - (c) where the data controller is a sole trader or an individual ... \$5,000.00
3. Fee for certified copy of any particulars contained in the Register \$500.00 base fee and an additional fee of \$100.00 per page

SECOND SCHEDULE (Regulation 5)

Form of Registration Certificate

**CERTIFICATE OF REGISTRATION
AS A DATA CONTROLLER
UNDER THE DATA PROTECTION ACT**

(Pursuant to Section 17)

This serves to certify that

ABC LIMITED

(a company duly registered under the Companies Act of Jamaica)

was registered with the Information Commissioner as a **Data Controller** pursuant to section 17 of the Data Protection Act, 2020 on the day of 20 and such registration shall remain valid for a period of **twelve (12) months** ending on the day of 20 unless cancelled by the Commissioner.

Dated this the day of 20 .

THE INFORMATION COMMISSIONER

Signed:

Dated the day of , 2023.

Information Commissioner

Approved: Prime Minister