



GUIDANCE NOTICE

REGISTRATION OF DATA CONTROLLERS AND DATA PROCESSORS OF MAJOR IMPORTANCE

NDPC/HQ/GN/VOL.02/24

(Pursuant to Sections 5d, 6(c), 44, 45 and 65 of the Nigeria Data Protection Act)

WHEREAS, personal data of citizens and persons (hereafter referred to as data subjects) in Nigeria are being processed by various organisations or persons for myriads of reasons within and outside Nigeria;

AND WHEREAS it is important for the privacy and security of data subjects to ensure that their personal data are PROCESSED ONLY BY GENUINE PERSONS OR ORGANISATIONS and ONLY FOR GENUINE REASONS recognised by law;

CONSIDERING that the Nigeria Data Protection Act, 2023 (hereafter referred to as the Act) under section 5(d) empowers the Nigeria Data Protection Commission (hereafter referred to as the Commission) to designate data controllers and data processors of major importance who are to register with the Commission;

NOTING that section 65 of the Act defines a data controller and a data processor of major importance as an entity which *is domiciled, resident in, or operating in Nigeria and processes or intends to process personal data of more than such number of data subjects who are within Nigeria, as the Commission may prescribe, or such other class of data controller or data processor that is processing personal data of particular value or significance to the economy, society or security of Nigeria as the Commission may designate;*

FURTHER CONSIDERING the prior notice and sensitization programmes in which the Commission specifically referred to data controllers of major importance under section 5(d) of the Act as the only eligible organizations for registration;

THUS, in line with its mandate to, among others, take into account data controllers and data processors with "*particular value or significance to the economy, society or security of Nigeria*" in the designation of data controllers and data processors of major importance the Commission hereby issues this Guidance Notice on the Registration of Data Controllers and Processors of Major Importance:

1. Purposive Designation of Data Controllers and Data Processors of Major Importance

- (1) A data controller or data processor shall be deemed to have "***particular value or significance to the economy, society or security of Nigeria***" and hence

designated to be of major importance if it keeps or has access to a filing system (whether analogue or digital) for the processing of personal data; and:

- (a) Processes the personal data of more than 200 (Two-Hundred) data subjects in six months; or
 - (b) Carries out commercial Information Communication Technology (ICT) services on any digital device which has storage capacity and belongs to another individual; or
 - (c) Processes personal data as an organisation or a service provider in anyone of the following sectors:
 - i. Financial
 - ii. Communication
 - iii. Health
 - iv. Education
 - v. Insurance
 - vi. Export and Import
 - vii. Aviation
 - viii. Tourism
 - ix. Oil and Gas
 - x. Electric Power
- (2) A data controller or a data processor who is under a fiduciary relationship with a data subject by reason of which it is expected to keep confidential information on behalf of the data subject shall be regarded as a data controller or a data processor of major importance – taking into consideration the significant harm that may be done to a data subject if such data controller or processor is not under the obligations imposed on data controllers or processors of major importance.

2. Classification of Data Controllers and Data Processors of Major Importance

- (1) The Commission classifies data controllers and data processors into 3 (three) levels or categories of data processing, namely:
 - (a) Major Data Processing-Ultra High Level (MDP-UHL)
 - (b) Major Data Processing-Extra High Level (MDP-EHL)
 - (c) Major Data Processing-Ordinary High Level (MDP-OHL)
- (2) Major Data Processing-Ultra High Level (MDP-UHL) shall be a category of data controllers and data processors of major importance who are, among other obligations, generally expected to ABIDE BY GLOBAL AND HIGHEST ATTAINABLE STANDARDS of data protection taking into account the following factors:
 - (a) The sensitivity of personal data in their care;
 - (b) Data driven financial assets entrusted in their care by data subjects;
 - (c) Reliance on third party servers or cloud computing services for the purpose of substantial processing of personal data;
 - (d) Substantial involvement in cross-border data flows;

- (e) Processing the personal data of over 5,000 (Five-Thousand) data subjects through the means of technology under its technical control or through a service contract;
- (f) Legal competence to generate revenue on a commercial scale;
- (g) The need for international standard certifications for people, processes and technologies involved in data confidentiality, integrity and availability; and
- (h) The need for accountability;

Provided always that any 5 (five) of the foregoing factors in this sub-paragraph 2(2) shall suffice for the purposes of categorization.

(3) Major Data Processing-Extra High Level (MDP-EHL) shall be a category of data controllers and data processors of major importance who are, among other obligations, generally expected to abide by global best practices of data protection taking into account:

- (a) The sensitivity of personal data in their care;
- (b) Data driven financial assets entrusted in their care by data subjects;
- (c) Functions as an establishment of government;
- (d) Reliance on third-party servers or cloud computing services for the purpose of substantial processing of personal data;
- (e) Substantial involvement in cross-border data flows;
- (f) Processing the personal data of over 1,000 (One-Thousand) data subjects through the means of technology under their technical control or through a service contract;
- (g) Legal competence to generate revenue on a commercial scale;
- (h) The need for reputable and standardized certifications for people, process and technologies involved in data confidentiality, integrity and availability; and
- (i) The need for accountability.

Provided that any 5 (five) of the foregoing factors in this sub-paragraph 2(3) shall suffice for the purposes of categorisation.

(4) Major Data Processing - Ordinary High Level (MDP-OHL) shall be a category of data controllers and data processors of major importance who are, among other obligations, generally expected to abide by global best practices of data protection taking into account:

- (a) The sensitivity of data assets in their care;
- (b) Inherent vulnerability of data subjects they typically engage with;
- (c) High risk to the privacy of data subjects if such personal data are processed by the data controller or data processor in a systematic or automated manner;
- (d) Processing the personal data of over 200 (two hundred) data subjects through the means of technology under their technical control or through a service contract;

- (e) The need for adequate technical and organisational measures for data protection;
- (f) The need for reputable and standardised certifications for people, processes and technologies involved in data confidentiality, integrity and availability; and
- (g) The need for accountability.

Provided that any 4 (four) of the foregoing factors in this sub-paragraph 2(4) shall suffice for the purposes of categorisation.

3. Specific Types of Data Controllers and Data Processors and their Fees

(1) The Commission specifies the types of data controllers and data processors of major importance under the classes referred to in paragraph 2 (two) of this Guidance Notice as follows:

- (a) Major Data Processing-Ultra High Level (MDP-UHL) – the amount payable is ₦250,000. These are:
 - i. Commercial banks operating at national or regional level,
 - ii. Telecommunication companies,
 - iii. Insurance companies,
 - iv. Multinational companies,
 - v. Electricity distribution companies,
 - vi. Oil and Gas companies
 - vii. Public social media app developers and proprietors,
 - viii. Public e-mail App developers and proprietors,
 - ix. Communication devices manufacturers,
 - x. Payment gateway service providers;
- (b) Apart from those mentioned in sub-paragraph 3(1)(a) above, organisations that process personal data of over 5,000 (Five-Thousand) data subjects in 6 (six) months are also in the category of Major Data Processing-Ultra High Level (MDP-UHL).
- (c) Major Data Processing-Extra High Level (MDP-EHL) – the amount payable is ₦100,000. These are:
 - i. Ministries, Departments and Agencies (MDAs) of government,
 - ii. Micro Finance Banks,
 - iii. Higher Institutions,
 - iv. Hospitals providing tertiary or secondary medical services, and
 - v. Mortgage Banks;
- (d) Apart from those mentioned in sub-paragraph 3(1)(c) above, organisations that process personal data of over 1,000 (One-Thousand) data subjects within 6 (six) months are also in the category of Major Data Processing-Extra High Level (MDP-EHL);
- (e) Major Data Processing-Ordinary High Level (MDP-OHL) amount payable is ₦10,000. These are:
 - i. Small and Medium Scale Enterprises (it must be such that have access to personal data which they may share, transfer, analyse, copy, compute or store in the course of carrying out their individual businesses);

- ii. Primary and Secondary Schools;
 - iii. Primary Health Centres; and
 - iv. Agents, contractors and vendors who engage with data subjects on behalf of other organisations that are in the category of MDP-UHL and MDP-EHL)
- (f) Apart from those mentioned in sub-paragraph 3(1)(e) above, organisations that process personal data of over 200 (two hundred) data subjects within 6 (six) months are also in the category of Major Data Processing-Ordinary High Level (MDP-OHL).
- (2) Existing data controllers and data processors are to register between 30th January, 2024 and 30th June, 2024.
- (3) Registration after the due date or failure to register shall be deemed as a default under the Act and a data controller or data processor who is in default is liable to a penalty as stipulated in the Act.

For Enquiries, contact the Commission via registration@ndpc.gov.ng You may visit www.ndpc.gov.ng. for more information.

Dated this 14th Day of February, 2024



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