

THE MAURITIUS DATA PROTECTION REGIME

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The ICT Sector in Mauritius

- ICT Sector as the 3rd pillar of Mauritius economy
 - Aim is to make the ICT sector the first pillar
- Reinforces the importance of the country to have an efficient and internationally recognised data protection framework for securing the right investment with a growing ITES-BPO sector.

Data Protection Law

- **Right to privacy is expressed in sections 3 and 9 of the Constitution and article 22 of the Civil Code**
- **Hence, the Data Protection Act (DPA) was enacted in 2004 and proclaimed in 2009 .**
- **DPA provides the legal framework to ensure that personal information is handled properly**

Data Protection Office

Vision

- A society where Data Protection is understood and practiced by all
- The right to privacy and data protection is primordial to the sanctity of any modern democracy
- The adoption of clear procedures for the collection and use of personal data in a responsible, secure, fair and lawful manner, by all data controllers and data processors

Role of the Data Protection Office

- a) Ensure compliance with the Data Protection Act and its regulations
- b) Issue or approve codes of practice/guidelines for the purposes of this Act
- c) Create and maintain a register of all data controllers; and data processors

Role of the Data Protection Office

- d) Exercise control on all data processing activities
- e) Promote self-regulation among data controllers and data processors
- f) Investigate any complaint or information which give rise to a suspicion that an offence, under this Act may have been, is being or is about to be committed
- g) Bring to the knowledge of the general public the provisions of this Act

Role of the Data Protection Office

- h) Undertake research into, and monitor developments in, data processing**
- i) Examine any proposal for data matching or data linkage that may involve an interference with, or may otherwise have adverse effects on the privacy of individuals**
- j) Co-operate with supervisory authorities of other countries, to the extent necessary for the performance of its duties**

Role of the Data Protection Office

k) Carry out periodical security checks and compliance audits

Steps being taken by Mauritius Government for an improved regulatory framework

Consideration for the signing and/or ratification of the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108)

✓ Currently, being analysed.

Steps being taken by Mauritius Government for an improved regulatory framework

To achieve adequacy with the European Union

- ✓ An EU consultant was appointed by the European Commission to identify the deficiencies in the DPA through the CRID report
- ✓ A second EU consultant was appointed by the European Delegation in Mauritius on the amendments to be brought to the DPA. A draft amendment bill has been finalised.

Steps being taken by Mauritius Government for an improved regulatory framework

Inclusion of data protection in the draft e-government strategy

✓ Formulate and Implement Data Sharing Policy

Extract below:

G4: Formulate and Implement Data Sharing Policy

G5: Set up Government Service Platform and sharing of citizens' data with Government Agencies

Government holds huge quantities of data on citizens, businesses and land which will benefit from being organized centrally and shared among Government Agencies. As an example, citizen data will be captured once at the Civil Status Division and shared among Government systems. The sharing of data will be governed by a policy that ensures compliance with Data Protection Act and appropriate IT security requirements. One of the instruments of the Policy is the Government Service Platform that will specifically address sharing of citizen data. ”

Steps being taken by the DPO for an improved regulatory framework

Participation in Projects

- The Data Protection Commissioner has submitted her views on the enactment of a Child Online Safety Bill, enactment of an anti-spam legislation, introduction of cryptographic laws in Mauritius and the Mauritius National Identity Card (MNIC), amongst many others.

Steps being taken by the DPO for an improved regulatory framework

Co-operation with other countries

- The Data Protection Commissioner is a member of the Francophone Association of Data Protection Authorities (AFAPDP) and is finalising membership with the GPEN group.
- The office has been accredited on 23 September 2013 in Warsaw, Poland at the 35th International Conference for Privacy and Data Protection Commissioners
- Has been chosen to host the 36th Edition of the Conference from 13 to 16 October 2014 and the first conference in Africa

Steps being taken by the DPO for an improved regulatory framework

Ongoing Sensitisation

- ✓ Carrying out mass sensitisation programmes on MBC television to promote data protection awareness
- ✓ Organising and participating in workshops
- ✓ Conducting presentations in Ministries and organisations
- ✓ Preparation of booklet on data protection for primary school and course materials for a Certificate course at

Steps being taken by the DPO for an improved regulatory framework

✓ Envisaging to purchase forensic software tools to assist investigations for the creation of a forensic lab for research purposes and treatment of forensic evidence

✓ Computerising our services.

New technological advancements

Concept of Cloud Technology and Open Data

- ✓ **Becoming more common and the choice of many organisations because they can be rapidly provisioned and released with minimal management effort**
- ✓ **Caution : Accountability for security and privacy in public clouds remains in principle with the organisation, the data controller. The data processor, the cloud provider is also bound by the obligations of the data controller by a written contract.**
- ✓ **Privacy by design approach should be adopted by cloud providers to protect data**

New technological advancements

Precautions from a data protection perspective:

- ✓ **Identify security, privacy and organisational requirements to be met by the cloud provider**
- ✓ **Perform risk and privacy impact assessments**
- ✓ **Establish a Service Level Agreement (SLA) on the expected level of service to be delivered including privacy and security provisions to secure the responsibility of cloud providers**
- ✓ **Put in place audit mechanisms to ensure that organisational practices are followed**

New technological advancements

Precautions from a data protection perspective:

✓ Ensure availability of critical data during an intermediate or prolonged disruption or a serious disaster

✓ Ensure that resources made available to the cloud provider under the SLA are returned in a usable form and confirm with evidence that information has been properly expunged

Guideline

- **Privacy Enhancing Technologies – An absolute Necessity for Effective Compliance with Data Protection Laws, Volume 7**



Strength

- Builds trust for safe and secure processing of personal data and protects the human right to privacy.
- However, data protection laws, although technologically neutral, should be relevant, up to date and applicable to the current technological world, user friendly with simple terms to avoid interpretation complexities.

Limitation

- Some sections are still vague and subject to confusion – thus amendments have been proposed to the local DPA.
- The DPA applies only for the protection of personal data. A freedom of information legislation is required to ensure that all types of information are protected. An Information Commissioner will have more enlarged powers.



Thank You

Any Questions?