

Institute for Judicial and Legal Studies

« *The Data Protection Reform for Mauritius* »

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Data Protection Office

The Data Protection Office

Data Protection in Mauritius has its origins in the National Information, Communication and Telecommunication Strategic Plan 2007-2011 which recommended the setting up of the Data Protection Office.

The Data Protection Office

The Data Protection Act 2004 was proclaimed in its entirety on the 16th of February 2009, except for section 17(5). In addition, the Data Protection Regulations 2009 (GN 22/09) were enacted to cater for the registration fees for data controllers, other prescribed fees, the registration form for data controllers and the request for access to personal data form which represents the form to be used by data subjects who are living individuals, for requesting access to their personal data from data controllers. The Data Protection Act 2004 gives individuals rights to protect them against data protection breaches, and creates obligations for those keeping personal information. Under the Act, individuals have the right to be informed of any data processing activity which relate to them as data subjects.

Reasons for having a legislation

There are several reasons for having legislation to regulate the collection and use of personal data:

- Technology now makes it easy to gather, retrieve, disseminate and manipulate huge amounts of personal data. This has given rise to concerns that the privacy of individuals can be easily compromised.
- Data protection legislation is also a prerequisite for attracting certain off-shore investment services.

Reasons of having a legislation

- Lack of security and privacy is often cited as the main reason for the slow growth of electronic transactions, (and thus, e-commerce and e-government). Several international surveys showed it to be the number one concern of businesses in doing business.
- The legislation thus promotes e-government and e-commerce in Mauritius as the availability of legal protection of personal data will encourage consumers and businesses to transact online.

Data Protection Act complements the objectives of the Electronic Transactions Act

It :

- Protects the individual's right to privacy thus giving them greater confidence in the use of e-commerce and e-government.
- Provides enhanced protection for the physical and electronic security of personal information.
- Ensures personal information is used correctly, that the information is accurate and limits access to the information to only those with a legitimate right to the information.
- Ensures successful facilitation of trading relations with international partners that have similar legislation.

EU Data Protection Directive

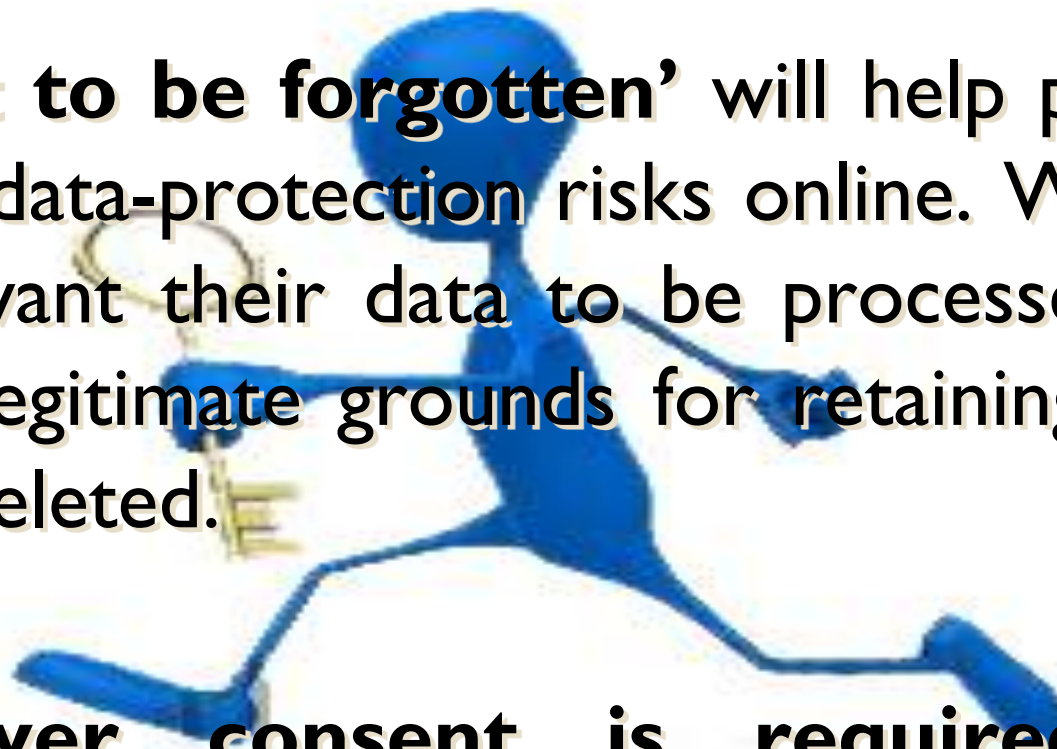
The EU's 1995 Data Protection Directive sets a milestone in the history of personal data protection. Its basic principles, ensuring a functioning internal market and an effective protection of the fundamental right of individuals to data protection, are as valid today as they were 17 years ago. But differences in the way that each EU country implements the law have led to an uneven level of protection for personal data, depending on where an individual lives or buys goods and services.

EU Data Protection Directive

The current rules also need to be **modernised** - they were introduced when the Internet was still in its infancy. **Rapid technological developments** and globalisation have brought new challenges for data protection. With **social networking sites**, **cloud computing**, location-based services and smart cards, we leave digital traces with every move we make. In this “brave new data world” we need a robust set of rules. The EU’s data protection reform will ensure the new rules are future-proof and fit for the digital age.

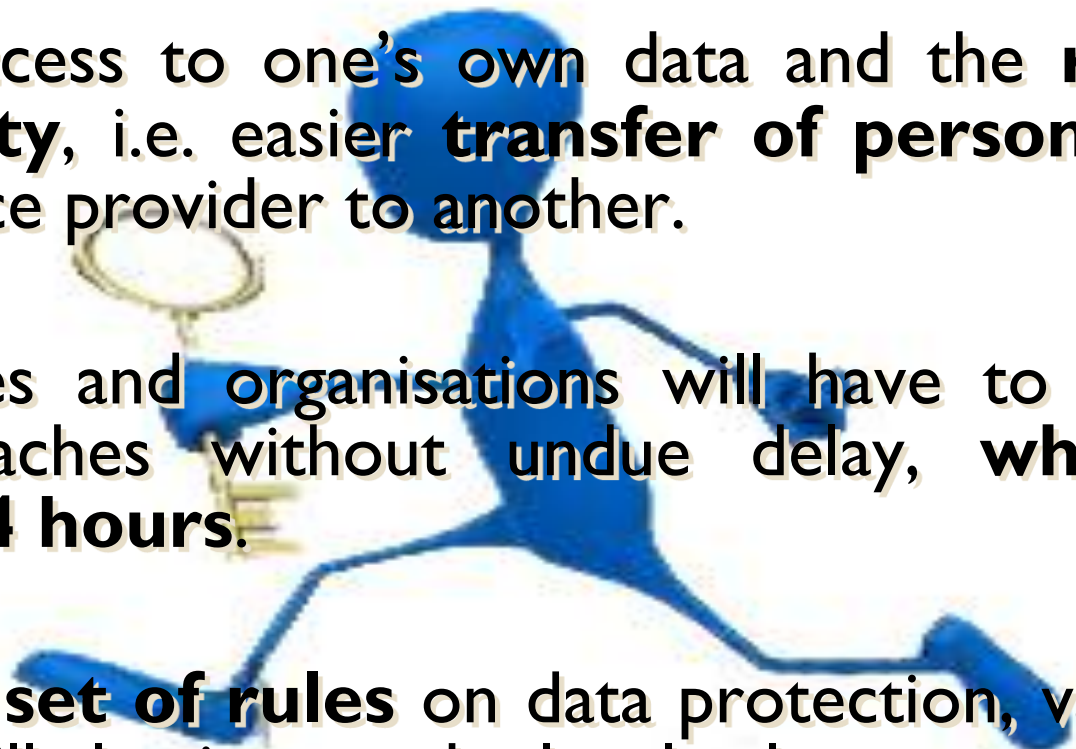
The key changes

- A **‘right to be forgotten’** will help people better manage data-protection risks online. When they no longer want their data to be processed and there are no legitimate grounds for retaining it, the data will be deleted.
- **Whenever consent is required** for data processing, it will have to be given **explicitly**, rather than be assumed.



The key changes

- Easier access to one's own data and the **right of data portability**, i.e. easier **transfer of personal data** from one service provider to another.
- Companies and organisations will have to notify serious data breaches without undue delay, **where feasible within 24 hours**.
- **A single set of rules** on data protection, valid across the EU and will also impact the local rules.
- **Companies** will only have to deal with **a single national data protection authority** – in the country where they have their main establishment.



The key changes

- Individuals will have the **right to refer all cases to their home national data protection authority**, even when their personal data is processed outside their home country.
- **EU rules will apply** to companies not established in the EU, if they offer goods or services in the EU or monitor the online behaviour of citizens.
- Increased **responsibility and accountability** for those processing personal data.

The key changes

- **Unnecessary administrative burdens** such as notification requirements for companies processing personal data **will be removed.**
- **National data protection authorities will be strengthened** so they can better enforce the EU rules at home

The main features of the data protection act

The Data Protection (Amendment) Bill at its final stage of vetting by the State Law Office will soon see light. The rationale of the amendments is to render the local law compliant with international standards namely the EU Data Protection Directive and to achieve adequacy with European standards to promote safe and trustworthy investment.

The main features of the data protection act

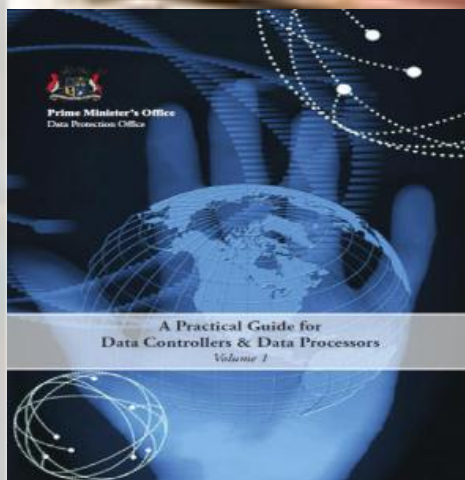
Many important changes would be made such as the easing up of the registration process, the introduction of important rights for the individuals, the facilitation of the conduct of enquiries, transfers of personal information abroad and a comprehensive review of the Act which has been characterised by 2 EU consultants assigned by the EU to advise on the amendments to be brought to the legislation, as poorly drafted.

The main features of the data protection act:

The practical difficulties encountered by the Commissioner during the investigations conducted by the office to deliver decisions based on a sound interpretation of the principles contained in the Act are quite serious and very often call for legal ingenuity.

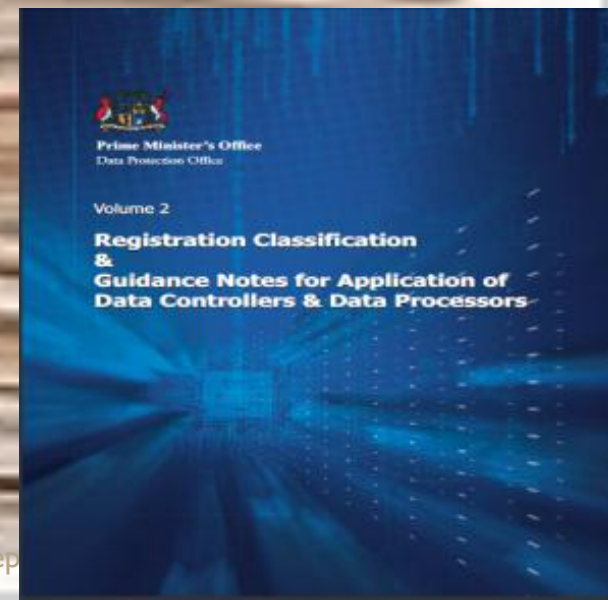
DPO Achievements

Guidelines - Data Protection Act 2004



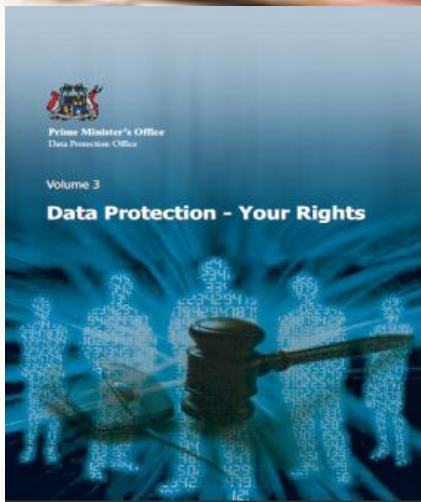
Vol. 1 - A Practical Guide for Data Controllers and Data Processors

Vol. 2 - Registration Classification & Guidance Notes for Application



DPO Achievements

Guidelines - Data Protection Act 2004



Vol. 3 - Data Protection - Your Rights

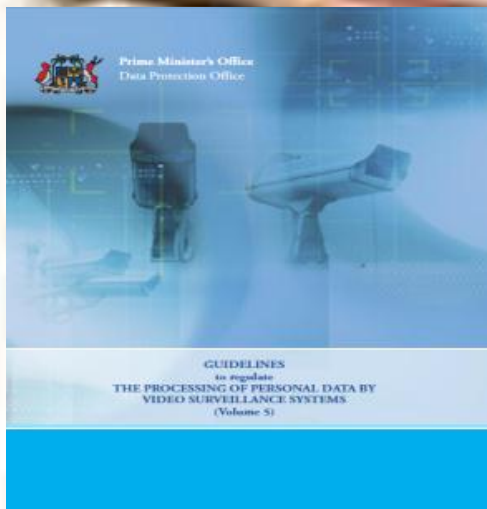
Vol. 4 - Guidelines for Handling Privacy Breaches



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Guidelines - Data Protection Act 2004



Vol. 6 - Guidelines on Privacy Impact Assessments



Vol. 5 - Guidelines to regulate The Processing of Personal Data by Video Surveillance Systems

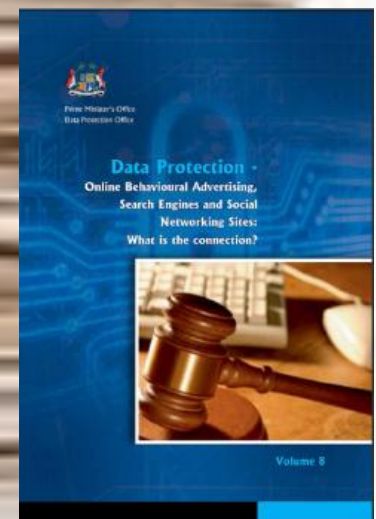
DPO Achievements

Guidelines - Data Protection Act 2004



Vol. 7 - Guidelines on Privacy Enhancing Technologies

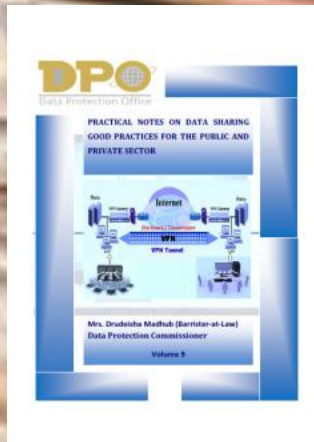
Vol. 8 - " Online Behavioural Advertising, Search Engines and Social Networking Sites :What is the connection?"



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Guidelines - Data Protection Act 2004



Vol. 9 - Practical Notes on Data Sharing Good Practices for the Public and Private Sector

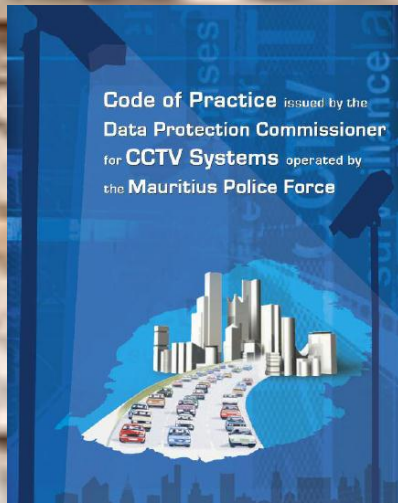
Vol 10 - Protecting the Confidentiality of Personal Data by Government Department(s)



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DPO Achievements

Code of Practice

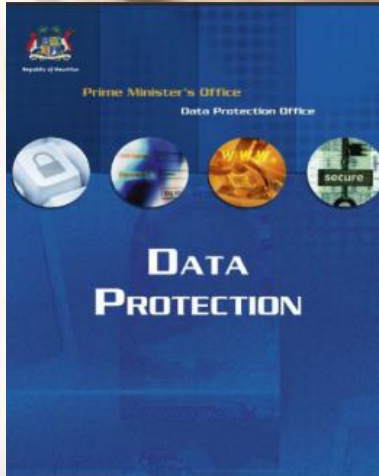


Code of Practice issued by the Data Protection Commissioner for CCTV Systems operated by the Mauritius Police Force

DPO Achievements

Code of Practice

Poster - Data Protection Office



Leaflet - Data Protection Act 2004