

Cyber and Data Protection (Licensing of Data Controllers and Appointment of Data Protection Officers) (Amendment) Regulations, 2026 (No.....)

It is hereby notified that the Minister of Information Communication Technology, Postal and Courier Services, in consultation with the Authority, has, in terms of Section 32 of the Cyber and Data Protection Act [Chapter 12:07], made the following Regulations:

1. These regulations may be cited as the Cyber and Data Protection (Licensing of Data Controllers and Appointment of Data Protection Officers) (Amendment) Regulations, 2026.
2. The Cyber and Data Protection (Licensing of Data Controllers and Appointment of Data Protection Officers) Regulations, 2024, published in Statutory Instrument 155 of 2024, are amended to by the insertion after section 17, of the following:

“18 Administrative Offences

- 1) A Data Controller or any other person subject to these regulations, commits an administrative offence where any mandatory or obligatory provision of these regulations is contravened and:
 - a. no specific criminal penalty is prescribed for such contravention; or
 - b. criminal prosecution of the contravention is not feasible.
- 2) Administrative offences shall be enforceable by The Authority.
- 3) The institution of administrative action under these regulations, shall not preclude criminal prosecution in terms of these regulations or section 33 of the Act, provided that no person shall be subjected to double punishment in respect of the same conduct.

19. Offences arising from breach of mandatory obligation by Data Controllers A

Data Controller commits an administrative offence, where the data controller, without lawful justification:

- 1) fails to apply for registration or licensing as a data controller, as provided for under section 4;

- 2) processes personal data without a valid data controller licence;
- 3) provides certification training for purposes of these regulations, without accreditation by the Authority.
- 4) continues to process personal data after the expiry, suspension, or revocation of a licence;
- 5) fails to appoint a Data Protection Officer in terms of Section 12;
- 6) fails to notify the Authority of the appointment, resignation, or dismissal of a Data Protection Officer within the prescribed period;
- 7) fails to implement appropriate technical and organisational data security measures;
- 8) fails to notify the Authority of personal data breach within the prescribed time;
- 9) fails to notify affected data subjects where such notification is required;
- 10) processes personal data in contravention of the Act, or these regulations;
- 11) processes a child's information without the consent of the parent or legal guardian of the child involved;
- 12) fails to keep required records or documentation;
- 13) fails to comply with a lawful compliance directive or remedial instruction;
- 14) obstructs or interferes with inspections or investigations by the Authority.

20. Power to impose administrative penalties

- (1) The Authority may impose an administrative penalty on any person who commits an administrative offence under these regulations.
- (2) An administrative penalty for each offence, shall not exceed the level prescribed in the 5th Schedule of these regulations.
- (3) In determining the penalty, the Authority shall consider:
 - (a) the nature, gravity, and duration of the breach;
 - (b) the intentionality or negligence of offence offender;
 - (c) any remedial actions taken by the data controller to mitigate the damage or distress suffered by data subjects in respect to the infringement;
 - (d) any previous non-compliance actions taken against the offender;
 - (e) the degree of co-operation with the Data Protection Authority, in order to remedy the breach and mitigate the possible adverse effects of the breach;
 - (f) the categories of personal data affected by the breach;

- (g) the manner in which the infringement became known to the Authority, including whether, and if so, to what extent the data controller notified the Authority of the breach;
- (h) any other aggravating or mitigating factor applicable to the case, including financial benefits gained, or losses avoided, as a result of the breach (whether directly or indirectly);
- (i) any other factors that the Authority may consider relevant.

21. Notice of intention to impose administrative penalty

- (1) Before imposing an administrative penalty, the Authority shall issue a Notice of Intention to impose an Administrative Penalty, stating:
 - a) the alleged contravention;
 - b) the proposed penalty;
 - c) the factual and legal basis; and
 - d) the right to make representations.
- (2) The notice shall call upon the affected person to make representations to the Authority, regarding the alleged violation, within the time frame specified therein.

22. Representation and hearings

- (1) Before issuing an administrative penalty for any one or more administrative offences specified in Section 19, the Authority shall provide the data controller or the authorised representative of the data controller, with an opportunity to make representations regarding the alleged contravention or data breach.
- (2) The Notice of Intention to Impose an Administrative Penalty issued in terms of Section 21, shall call upon the data controller, if he so wishes, to make representations to the Authority, within such period from the date of service of the notice, as it shall specify.
- (3) The notice period shall not exceed thirty (30) days, depending on the nature of the contravention.
- (4) If the data controller elects to make representations, the Authority may, after receiving such representations:
 - (a) determine the circumstances and place, in which and the process by which, the hearing may be conducted,
 - (b) specify the form and content of materials to be submitted for the hearing,

- (c) specify the timelines for submission of materials or evidence prior to the hearing or determination, and,
- (d) conduct an oral hearing in person or by electronic means, or determine the matter on written submissions,
- (5) After considering any representations made in terms of subsection (4) the Authority may serve, or refrain from, or defer serving, an order issued in terms of Section 23 or serve an order on different terms.
- (6) Hearings shall be conducted fairly and impartially, and the affected person may be legally represented.

23. Determination of Administrative Offences

- (1) After considering the representations made by the data controller, if any, the Authority shall decide and inform the data controller of the said determination.
- (2) Subject to subsection (1), a determination issued by the Authority must specify the reasons for the decision.
- (3) The Authority may issue any one or more of the following orders;
 - (a) impose a penalty as prescribed in the 5th Schedule; or
 - (b) issue a compliance directive;

A Penalty Order issued in terms of Section 23(3)(a) shall specify:

- (c) the amount of the applicable penalty;
- (d) details of the contravention or the offence;
- (e) the reason for the decision;
- (f) the period within which the administrative penalty is payable;
- (g) the consequences of non-compliance with the order, and
- (h) the data controller's right to appeal.

24. Payment of Penalty and effect of non-compliance

- (1) An administrative penalty issued in terms of Section 23 (3)(a) shall be paid within thirty (30) days of service of a penalty order.
- (2) Failure by a data controller to pay the Administrative Penalty shall:
 - (a) render the Penalty recoverable as a civil debt; and
 - (b) disqualify the Data Controller from applying for; renewal or variation of a data controller licence, until payment is made in full.

25. Right of Appeal

An aggrieved person may appeal against a decision of the Authority to the

Administrative Court, within thirty (30) days from the date of the decision.”

3. Administrative Penalties Schedule

The Principal Regulations are amended by the insertion after the Fifth Schedule of the Administrative Penalties, as follows:

“FIFTH SCHEDULE

(Section 23)

ADMINISTRATIVE PENALTIES SCHEDULE

Offence	Maximum Administrative Penalty (USD)
Operating without a data controller	10,000
Failure to renew a data controller time frame	5,000
Processing personal data in contravention of regulations	10,000
Provision of certification training regulations, without accreditation	10,000
Failure to appoint a data protection officer	10,000
Failure to notify the Authority of appointment of DPO	5,000
Failure to notify the DPA of dismissal within the prescribed period	2,000
Failure to publish details of the website, widely read newspaper or other publication	2,000
	5,000

Processing a child's information without the consent of the Parent or Legal Guardian of the child involved	10,000
Failure to ensure security of data	

Offence	Maximum Administrative Penalty (USD)
Failure to notify the Authority of a breach	10,000
Failure to notify affected data subjects of a breach adversely affecting individuals' rights or freedoms	5,000
Failure to comply with compliance requirements within the prescribed compliance period	10,000
Obstruction of investigation or inspection	10,000
Failure to keep required records or to produce records	5,000