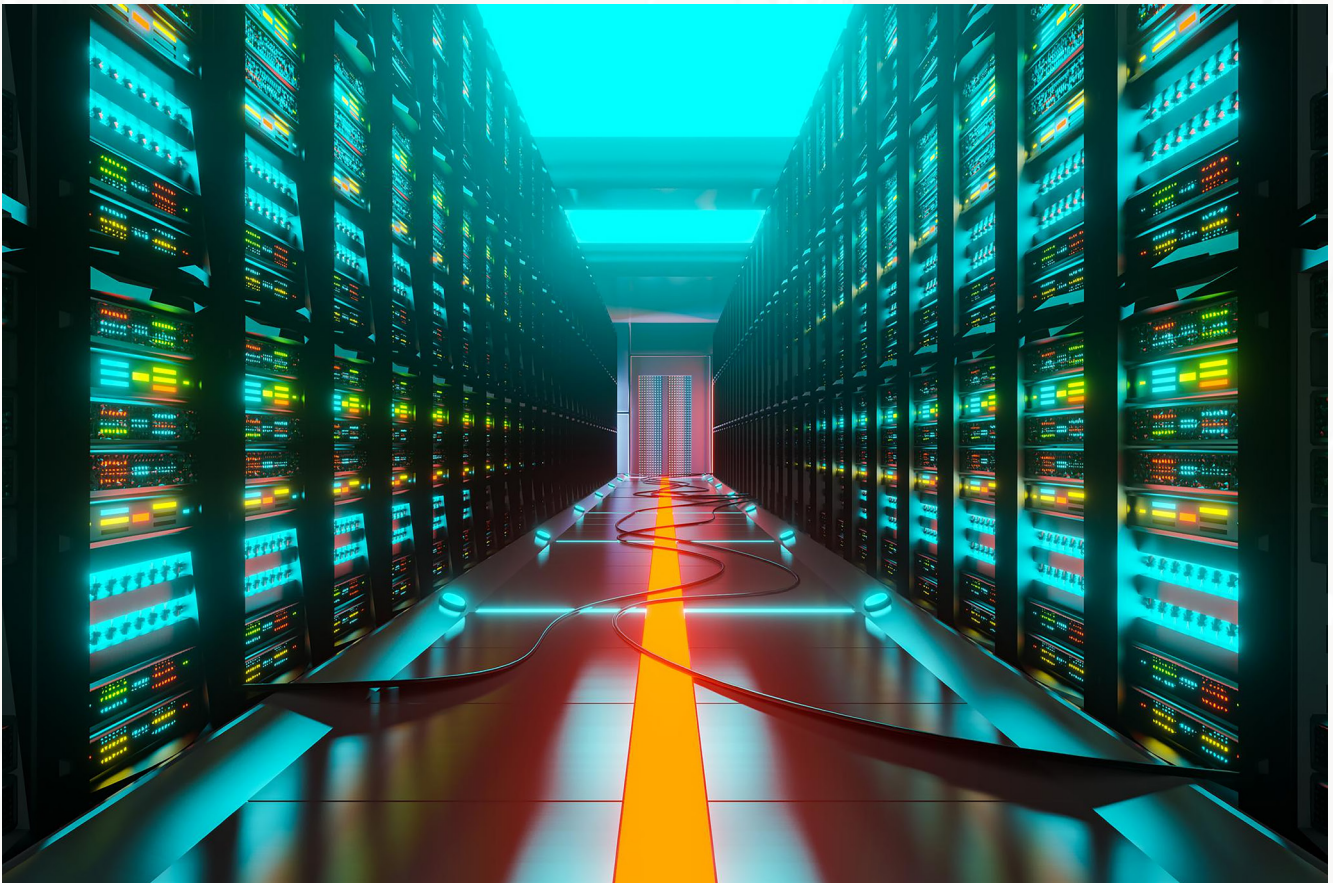




'creating a level playing field'

CYBER AND DATA PROTECTION IMPLEMENTATION GUIDELINE ON LICENSING OF DATA CONTROLLERS

CDPG 1 OF 2025



1. PURPOSE AND EFFECTIVE DATE

This guideline is issued in accordance with section 6 (1) of the Cyber and Data Protection Act [Chapter 12:07] (hereinafter referred to as “the CDPA”). POTRAZ, the designated Data Protection Authority is mandated to set conditions for the lawful processing of personally identifiable information, and this includes having a register of all data processing activities and licensing of data controllers. All controllers that engage in processing personally identifiable data shall be registered and licensed unless exempt from such registration or licensing under the Act and regulations. This guideline seeks to assist data controllers navigate the licensing process by explaining the various licensing categories, fees, and applicable exemptions from licensing as well as fines for non-compliance. A step-by-step guide on how to register and obtain a data controlling license is also outlined.

The guideline shall be read in conjunction with the Cyber and Data Protection (Licensing of Data Controllers and Appointment of Data Protection Officers) Regulations (S.I. 155 of 2024) (hereinafter referred to as ‘the Regulations’). This guideline is effective from the date of publication by the Authority.

2. INTRODUCTION

According to Section 3 of the Regulations, no individual or entity is permitted to process personal information for the purposes specified in the regulations unless licensed by the Authority. “Processing” means any operation or sets of operations which are performed on personal data or on sets of personal data whether or not by automated means, such as:

- (a) collection, recording, organisation, structuring.
- (b) storage, adaptation, or alteration.
- (c) retrieval, consultation, or use.
- (d) disclosure by transmission, dissemination, or otherwise making available.
- (e) alignment or combination, restriction, erasure, or destruction.

3. EXAMPLES OF DATA SUBJECTS AND PERSONALLY IDENTIFIABLE INFORMATION

3.1 The Regulations provide for four (4) licence categories that are premised on the number of data subjects that a controller collects personally identifiable information from. Data subjects include:

- 3.1.1 employees,
- 3.1.2 daily walk in-visitors,
- 3.1.3 members/ clients,
- 3.1.4 service providers,
- 3.1.5 suppliers,
- 3.1.6 individuals accessing the data controller’s website, or
- 3.1.7 any other person from whom personally identifiable information is processed.

- 3.2 In terms of section 3 of the CDPA, personally identifiable information is information relating to a data subject and includes but is not limited to the following:
- 3.2.1 name, address, telephone number,
 - 3.2.2 race, national or ethnic origin, colour, religious or political beliefs of associations,
 - 3.2.3 age, sex, marital status, or family status,
 - 3.2.4 an identifying number, symbol, or other particulars assigned to that person,
 - 3.2.5 fingerprints, blood type or inheritable characteristics,
 - 3.2.6 Healthcare history, including physical or mental disability,
 - 3.2.7 Educational, financial, criminal or employment history.

4. WHO IS A DATA CONTROLLER?

Section 3 of the CDPA stipulates that a data controller is a natural or legal person who is licensable by the Authority. For a person to qualify as a data controller they must answer yes to one or more of the following:

- 4.1 Do you decide to collect or process personal data?
- 4.2 Do you decide what the purpose or outcome of the processing is to be?
- 4.3 Do you decide what personal data should be collected?
- 4.4 Do you decide which individuals to collect personal data about?
- 4.5 Do you obtain a commercial gain or other benefit from the processing?
- 4.6 Do you expect any payment for services from another controller?
- 4.7 Are you processing the personal data because of a contract between you and the data subject?
- 4.8 Do you collect personal data of your employees or other third parties?
- 4.9 Do you make decisions about the data subjects concerned as part of or because of the processing?
- 4.10 Do you exercise professional judgement in the processing of the personal data?
- 4.11 Do you have a direct relationship with the data subjects?
- 4.12 Do you have complete autonomy as to how the personal data is processed and stored?
- 4.13 Have you appointed data processors to process the personal data on your behalf?

5. WHO IS ELIGIBLE FOR LICENSING?

All data controllers who meet the minimum threshold of the number of data subjects must be licensed. This requirement applies to institutions established in terms of the laws of Zimbabwe such as:

- 5.1 public entities,
- 5.2 state owned enterprises,
- 5.3 government ministries, department, and agencies,
- 5.4 private and public companies,
- 5.5 partnerships of professionals such as doctors, lawyers, engineers, and architects,
- 5.6 religious entities such as churches and mosques,
- 5.7 health service providers such as hospitals, clinics, pharmacies,

- 5.8 educational institutions,
- 5.9 retailers and wholesalers,
- 5.10 hoteliers,
- 5.11 local authorities,
- 5.12 financial institutions,
- 5.13 insurers,
- 5.14 transporters,
- 5.15 payment solution providers,
- 5.16 political parties,
- 5.17 non-governmental organisations including trade unions/trusts, associations and societies
- 5.18 social clubs such as sports clubs, gymnasiums,
- 5.19 professional bodies and
- 5.20 any entities as maybe deemed by the Authority as data controllers.

NB: The above list is not exhaustive but provides a guideline of the categories of data controllers covered under the Act.

6. SHOULD FOREIGN ENTITIES COMPLY WITH THE LICENCING REGULATIONS?

Where an entity is not established in term of the laws of Zimbabwe but collects personally identifiable information from Zimbabwe or the means of processing such personal data is located in Zimbabwe, the foreign entity is required to designate a data controller representative for purposes of compliance with Section 4 of the Act.

7. LICENSING CATEGORIES/TIERS

The applicable licensing tiers are as follows:

Tier	Number of data subjects	Registration & License fees
1	50 to 1000	\$50
2	1001 to 100 000	\$300
3	100 001 to 500 000	\$500
4	500 000 and above	\$2500

8. EXEMPTIONS FROM LICENSING AND REGISTRATION

Section 8 of the Regulations exempts certain categories of data controllers from obtaining a license from the Authority. Each exempted category must still adhere to the Act's overarching data protection principles, ensuring that personal information is protected, managed responsibly and ethically, even without the requirement for licensing.

The exemptions are in three (3) categories which are:

8.1 **Personal, family, or household matters**

Individuals who process personal information solely for personal or family purposes are exempt from licensing and registration as a data controller. Individuals are allowed to keep the addresses, phone numbers and pictures without the need to obtain a data controller licence from the Authority.

The Act and the Regulations do not define what constitutes personal, family or household affairs. The Authority therefore guides as follows in determining the activities that constitute personal, family and household affairs. Such activities include:

- 8.1.1 Social networking or managing family-related social media groups, sharing home/ family gathering photos, personal phone books, or
- 8.1.2 Personal use such as school association groups, neighbourhood update groups, hobby, and craft groups, where data is used for purely private or familial reasons with no commercial benefit.
- 8.1.3 Personal, family or household affairs not connected to commercial or professional activities.

8.2 To further guide on this matter, it is also important for individuals to ask the following questions to be able to ascertain whether they are covered under the exemption.

- 8.2.1 Are your data collection activities likely to result in personal data being shared with an indefinite number of people rather than to limited community of family, friends, and acquaintances?
- 8.2.2 Do you have a personal relationship with the data subject?
- 8.2.3 Does the scale and frequency of data processing indicate some professional or business activity on your behalf?
- 8.2.4 Is there a possibility of your data processing activities having an adverse impact on people including an intrusion into their privacy?

8.3 **Law enforcement**

Entities involved in law enforcement are exempt from licensing requirements due to the nature of their public function. Those exempt under law enforcement are:

- 8.3.1 The police,
- 8.3.2 The judiciary,
- 8.3.3 Military, and
- 8.3.4 State security.

However, the Authority may issue guidelines on safeguards to be considered even for law enforcement purposes. Though exempted from obtaining a license, the law enforcement agencies must register their data controlling activities with the Authority and are not exempt from adhering to certain data protection principles.

8.4

Journalistic, historical, or archival purposes

Activities focused on journalism, historical documentation, or archival work are also exempt from licensing. This exemption seeks to balance the rights to privacy with the freedom of information and freedom of expression. It seeks to allow the media to report factual and accurate information. It also enables information to be processed accurately for historical and archival purposes. While exempted for journalistic purposes, they may be still be required to licence as a controller for other purposes.

For journalistic exemptions to apply, the journalists must exercise their rights without breaching data processing principles and upholding of the rights of data subjects.

- a) This exemption applies to licensed journalists acting in the course of their work if:
 - b) there is a reasonable belief that the publication will be in the public interest,
 - c) there is an already established public interest; and
- the data is processed with the intention of publication.

The exemption also applies to the National Archives of Zimbabwe, which processes data for public information and historical record-keeping.

9.

LICENSING CONDITIONS

The Authority can impose certain licensing conditions on data controllers as provided for in Section 4 (4) of the Regulations.

9.1

Special licensing conditions

Data controllers in Tier 1 are deemed to be small scale controllers who process minimal amounts of personal data. Such controllers in Tier 1 are exempted from appointing a DPO. However, this is dependent on the nature of processing and sector of operation as determined by the Authority.

9.2

9.2.1 Validity, suspension, and cancellation of data controlling licenses

9.2.2 A data controller license is valid for a period of 12 months.

A data controller license may be suspended or cancelled by the Authority if the data controller fails to meet any terms and conditions of its licence as set by the Authority.

10.

10.1 KEY STEPS TO OBTAINING A DATA CONTROLLER LICENSE

A data controller should consider the following steps prior to applying for licensing: -

Step 1: Identify if they meet the criteria to be classified as a data controller.

Step 2: Identify the classes and categories of personal data processed.

Step 3: List the sensitive personal data processed.

Step 4: Identify any transfer of personal data outside Zimbabwe.

Step 5: Identify the risks and safeguards for protection of personal data.

Step 7: Identify the Licensing Tier.

Step 9: Submit the Application Form (DP1) annexed hereto.

10.2

Once a completed application form is submitted, the Authority has 14 days within which to

10.2.1 consider the application and taking any of the following actions:

10.2.2 Approving the application and issuing the licence.

10.2.3 Rejecting the application and not issue a licence.

Request for further information.

11.

PROVISION OF FALSE INFORMATION ON LICENSE CATEGORY

Under Section 7 of the Regulations, it is an offence for any data controller to knowingly submit information that is false or materially misleading during the registration process. This provision is intended to ensure that all data controllers provide accurate and truthful information when applying for a license, as false data could have serious implications for compliance and accountability.

12.

12.1 OFFENCES AND PENALTIES

a) The Regulations provide for the following offences:

Failure to obtain a data controlling license within the stipulated time Section 3 (3) of the

b) Regulations.

Continuing to process data after the stipulated time without a data controlling license Section

c) 4 (6) of the Regulations.

d) Failure to renew a data controlling license Section 5 (3) of the Regulations.

Submission of false or misleading information for the purposes of registration in terms of

e) Section 7 of the Regulations.

Failure to discharge the data controller obligations in terms of Section 10 (6) of the

f) Regulations.

Failure to appoint a data protection officer within ninety (90) days of promulgation of the Regulations as per Section 12 (6).

12.2

If a data controller is found guilty of any of these offences, they may be liable to a fine not

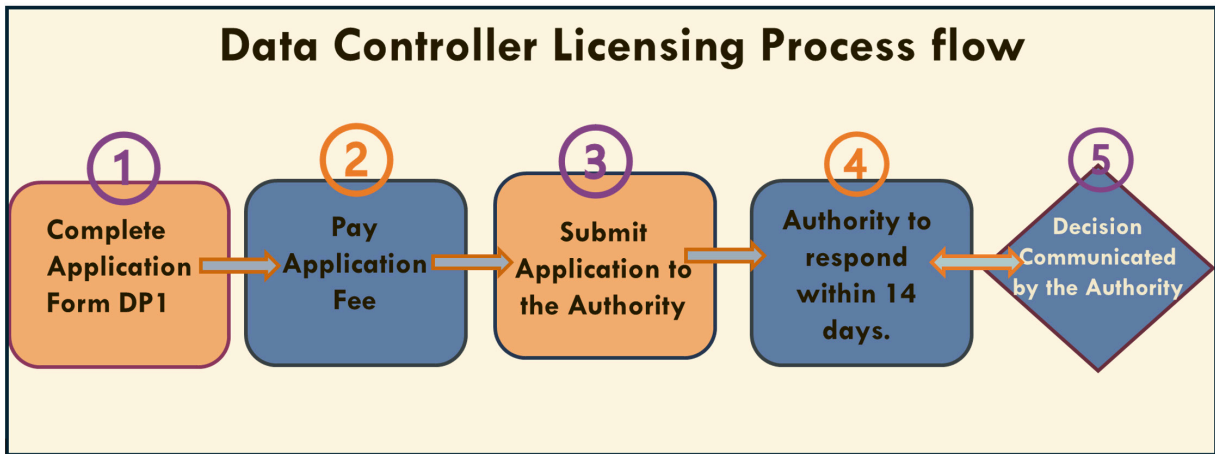
12.3 exceeding level 11, a prison sentence of up to seven years, or both a fine and imprisonment.

These significant penalties underscore the importance of maintaining transparency and accuracy in the data processing and registration processes, as well as the regulator's commitment to uphold ethical standards in data protection practices.

13.

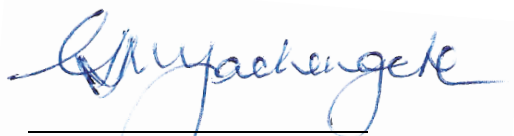
REGISTRATION AND LICENSING DEADLINE

According to Section 4(5) of the Regulations, all data controllers that are not exempt from registration and licensing must be registered and licensed with the Authority within 6 months from the date of promulgation of the Regulations. The deadline for licensing as a data controller is 12 March 2025.



For further guidance on licensing requirements and process, contact the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ) at regulator@potraz.zw or dpa@potraz.zw or call +263 242 333032/46/48.

ISSUED ON THIS **28th** DAY OF **JANUARY 2025**



DIRECTOR GENERAL



'creating a level playing field'

APPLICATION/ RENEWAL FORM (FIRST SCHEDULE) DP1 REGISTRATION & LICENCING AS A DATA CONTROLLER

Note: Before filling out this application form, consult the registration guide available on www.potraz.zw

SECTION 1 – APPLICANT DETAILS		
OPERATIONAL DETAILS		
Entity Name:		
Registration Number (if applicable):	License Number (if applicable):	Data Controller Category or Class Tier:
NATURE OF ENTITY		
<i>Tick as appropriate</i>		
<input type="checkbox"/> Public / Government Dpt <input type="checkbox"/> Private <input type="checkbox"/> NGO <input type="checkbox"/> Faith Based organisation <input type="checkbox"/> Political organisation <input type="checkbox"/> Other:		
Entity Sector		
Entity Address:		
Phone Number:		
Email Address:		
Website:		
NAME OF DESIGNATED DATA PROTECTION OFFICER		
Name:		
Phone Number:		
Email Address:		
REPRESENTATIVE IN ZIMBABWE <i>(if the applicant is established outside of Zimbabwe)</i>		

Name:	
Phone Number:	
Address:	
Email:	
Website:	

SECTION 2 – PERSONAL DATA				
CATEGORY OF DATA SUBJECTS (e.g., employee, client, supplier, or shareholder, students, patients, etc)	DESCRIPTION OF PERSONAL DATA (e.g., name, address, or national registration number, etc)	PURPOSE OF PROCESSING (e.g., service provision, HR management, invoicing, Know Your Customer (KYC), etc).	CATEGORY OF RECIPIENT(S) TO WHOM PERSONAL DATA IS DISCLOSED (e.g., Regulators, Partners, Investors, Processor, etc.)	GROUND FOR PROCESSING (Tick as appropriate)
				<input type="checkbox"/> Consent of data subject <input type="checkbox"/> Contractual necessity <input type="checkbox"/> Legal obligation <input type="checkbox"/> Vital interests of the data subject or other person <input type="checkbox"/> Public interest <input type="checkbox"/> Performance of duties of a public entity <input type="checkbox"/> Legitimate interest <input type="checkbox"/> Research upon authorization

SECTION 3 – CATEGORIES OF SENSITIVE PERSONAL DATA

Applicable **Not Applicable** (Tick as appropriate)
If applicable, please fill in the below details otherwise proceed to section 4.

PLEASE SELECT THE TYPE(S) OF SENSITIVE PERSONAL DATA YOU PROCESS (Tick as appropriate)	SPECIFY PURPOSE(S) FOR PROCESSING SENSITIVE PERSONAL DATA	GROUND FOR PROCESSING (Tick as appropriate)
<input type="checkbox"/> Person's race		<input type="checkbox"/> Consent of data subject <input type="checkbox"/> Obligations of the data controller/ data processor or exercising specific rights of the data subject <input type="checkbox"/> Vital interests of the data subject or other person <input type="checkbox"/> Preventive or occupational medicine, public health <input type="checkbox"/> Archiving, scientific, and historical research or statistical purposes
<input type="checkbox"/> Social origin		
<input type="checkbox"/> Genetic or biometric information		
<input type="checkbox"/> Political opinion		
<input type="checkbox"/> Health status		
<input type="checkbox"/> Criminal records		
<input type="checkbox"/> Religious or philosophical beliefs		
<input type="checkbox"/> Sexual life or family details		
<input type="checkbox"/> Medical records		

SECTION 4 – DATA PROCESSOR'S INVOLVEMENT

Applicable **Not Applicable** (Tick as appropriate)
If applicable, please list your Data Processors and fill in the details below, otherwise proceed to section 5.

NAME OF DATA PROCESSOR(S)	DO YOU HAVE WRITTEN DATA PROCESSING CONTRACT(S) WITH THE DATA PROCESSOR(S)?
	<input type="checkbox"/> YES <input type="checkbox"/> NO (Tick as appropriate)

SECTION 5– TRANSFER OF PERSONAL DATA OUTSIDE ZIMBABWE

Applicable **Not Applicable** (Tick as appropriate)
If applicable, please list the countries in the section below, otherwise proceed to section 6.

--

Note: You will need to apply for a separate authorization to transfer personal data outside of Zimbabwe and to provide data sharing agreements.

SECTION 6 – MEASURES FOR PROTECTION OF PERSONAL DATA

RISKS TO PERSONAL DATA (e.g., unauthorized access/disclosure, or theft.)	SAFEGUARDS, SECURITY MEASURES AND MECHANISMS IMPLEMENTED TO PROTECT PERSONAL DATA (e.g., access control, visitors' logbook, encryption or other information security measures.)

Do you store personal data outside of Zimbabwe? YES NO (Tick as appropriate)

If YES, you need to apply for a separate authorization to store personal data outside of Zimbabwe.

SECTION 7 – ACCOMPANYING DOCUMENT CHECKLIST

DOCUMENT TYPE	INDICATE BY A TICK OR 'X' WHERE APPLICABLE TO SHOW THAT THE DOCUMENT IS SUBMITTED OR NOT.
Certificate of incorporation	<input type="checkbox"/>

I certify that the above information is correct and complete and hereby apply to be registered as a Data Controller under the Cyber & Data Protection Act [Chapter 12:07] of 2021 and Statutory Instrument 155 of 2024, Cyber and Data Protection Regulations relating to the protection of personal data and privacy.

Signature: _____ Date: _____

Name: _____

(*Applicant / Person authorized to sign on behalf of Applicant)

FOR OFFICE USE ONLY

Fee Class/ Tier:..... Total Fee:.....Receipt No:.....

License/Registration Number:.....

Recommending Officer:.....Date:.....

Reviewing Officer:.....Date:.....

Approving Officer:.....Date:.....

Comment (s):.....
.....
.....