



# DATA PROTECTION REGULATIONS

Presentation on:

**The Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021**

**Taskforce on the Development of the Data Protection General Regulations.  
April, 2021**

**This power point is provided to assist in understanding the draft Data Protection Regulations. It does not form part of the Draft Regulations. The draft Data Protection Regulations which are public documents and are available online are the only authoritative document**

# SCOPE OF THE REGULATIONS

1. Eligibility for Registration
2. Application for Registration
3. Registration of a Public Body
4. Verification of Application
5. Certificate of Registration
6. Display of the Certificate of Registration.
7. Renewal of Registration.
8. Refusal of renewal of the Certificate of Registration.
9. Exemption from Mandatory registration
10. Register of Data Controllers and Data Processors.

1. Refusal of renewal of the Certificate of Registration.
2. Exemption from Mandatory registration
3. Change of Particulars
4. Cancellation or variation of registration.
5. Regulatory Fees
6. Certified Copy
7. Replacement of Registration Certificate
8. Electronic Registration.
9. Offences



# Eligibility for Registration

- Where the person determines the means and purpose of processing personal data.

Data  
Controller



- Where the person processes the data on behalf of the data controller, and
- Has a contractual relationship with the data controller and is dependent on the controller on the means and manner in which the data shall be processed.

Data  
Processor



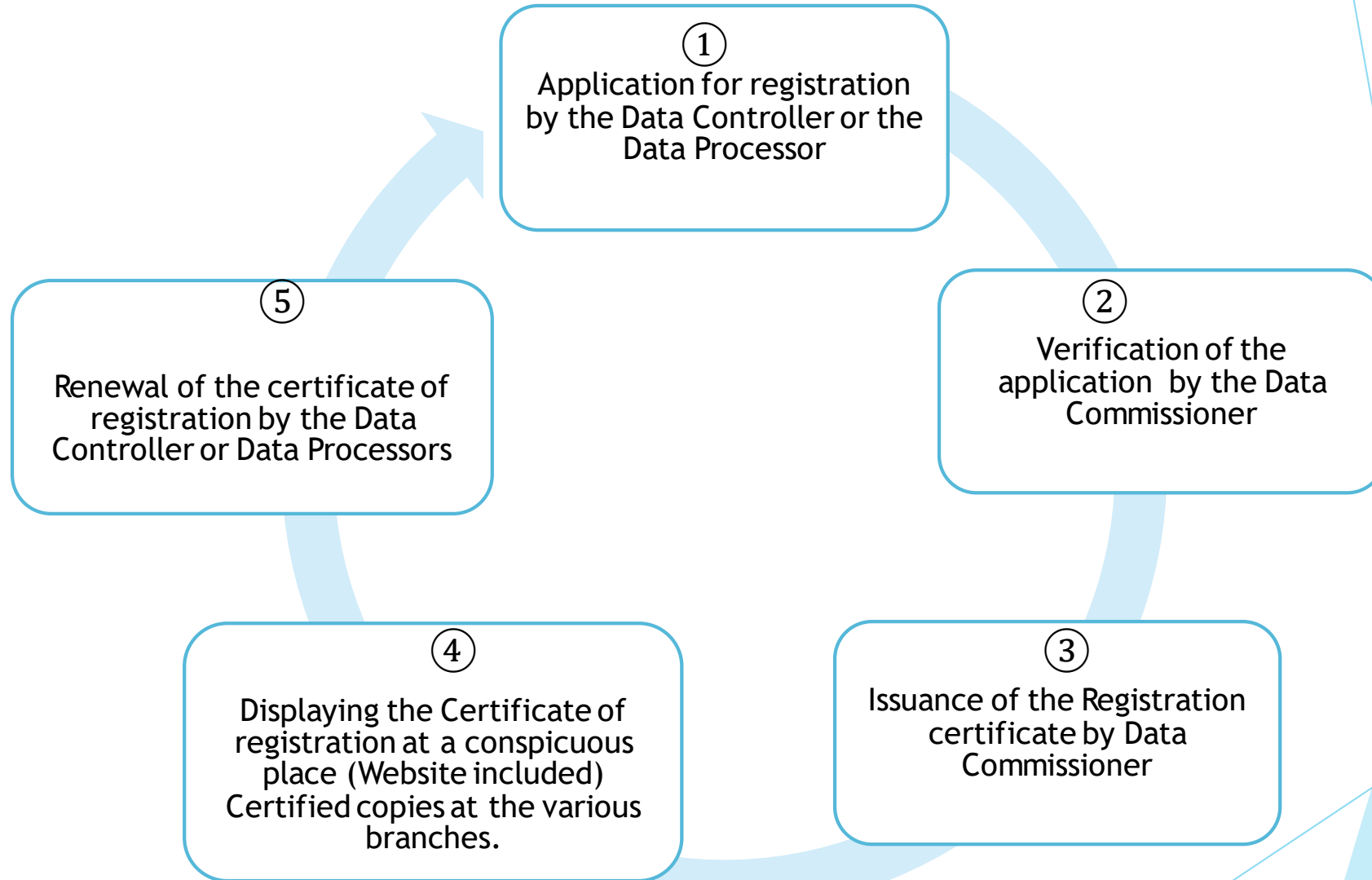
# Mandatory Registration

- ❑ A Data Controller or Data processor with an annual turnover/revenue of more than five million shillings and employ more than ten (10) people are required to register
- ❑ A Data Processor or a Data Controller is required to register (regardless of annual turnover/revenue and number of employees) provided that they are processing personal data in line with the following purposes:

- ▶ Canvassing political support among the electorate.
- ▶ Operating Credit Bureaus.
- ▶ Crime prevention and prosecution of offenders (including operating security CCTV systems).
- ▶ Debt administration and factoring.
- ▶ Gaming and betting operators.
- ▶ Provision of education.
- ▶ Health administration and provision of patient care.
- ▶ Hospitality industry firms.
- ▶ Insurance administration and undertakings.

- ▶ Faith based or religious institutions.
- ▶ Retirement benefits administration.
- ▶ Property management including the selling of land.
- ▶ Provision of financial services.
- ▶ Telecommunications network or service providers.
- ▶ Businesses that are wholly or mainly in direct marketing.
- ▶ Internet access provider.
- ▶ Transport services firms (including online passenger hailing applications)
- ▶ Public sector bodies.
- ▶ Businesses that process genetic data.

# Registration Procedure



# Application for Registration

- The Application shall be accompanied by:
- the registration fees
- Establishment Documents.
- Particulars of the Data Controller / processor
- Description of the categories of personal data
- Other relevant informant

# Verification of the Application.

- Upon receipt of the Application document the Data Commissioner shall undertake a verification process of the details provided.
- Where satisfied, the Data Commissioner may issue a certificate of registration.
- Where dissatisfied, the Data Commissioner may decline the application, giving reasons.



# Certificate of Registration.

- Where the Data Commissioner is satisfied that the applicant fulfills the requirement of registration under the regulations:
- Issue the applicant with the certificate of registration within 14 days.
- Enter the name of the applicant into the register.

# Display of certificate of Registration.

- The data controller or data processor shall display the certificate at a conspicuous place in the principle place of business or on its official website.
- Display of such other information the Data Commissioner may require from time to time.



# Renewal of Registration.

- Application for renewal shall be done 30 days before the expiry of the certificate.
- The renewal procedure shall be similar to the application process.
- Where satisfied, the Data Commissioner shall issue a certificate within 30 days from the date of application.
- Verification shall be undertaken where new details are provided

# Refusal of Registration or Renewal.

- The Data Commissioner shall notify an applicant with in 21 days where their application for registration or renewal is declined giving reasons for the decision.
- Grounds for decline an application shall include:
  - Provision of insufficient particulars
  - Inappropriate safeguards
  - Non-compliance with the Data Protection Act





## Register of Data Controllers and Data Processors.

- The Data Commissioner shall keep a register of data controllers and data processors outlining:
- Name and particulars or registration
- Categories of personal data being processed
- Addresses and the Principal place of business
- Details of the Data Protection Officer, where applicable



## Change of Particulars of registration

- Any change of the particulars of registration should be notified to the Data Commissioner within 14 days of the occurrence of the change.
- Request should be accompanied with the necessary documentation.



## Cancellation or variation of the Certificate.

- The Data Commissioner may cancel or vary a certificate where:
- The Application is made,
- False or misleading information had been provided during registration,
- Willful neglect or failure to comply with the Data Protection Act



## Application for a certified copy.

- A data Controller or data processor may apply to the Data Commissioner for a certified copy of the registration certificate.
- A certified copy of the registration certificate shall be issued upon payment of fees.

## Replacement of the Registration Certificate.

- Such an application shall be made where the certificate of registration is lost or damaged.
- Application should be accompanied by a statutory declaration and the requisite fees.



## Electronic Registration

- Provision of electronic applications.



# Obligations of the Data Commissioner under the Regulations



Maintain an up to date register of all registered data controllers and data processors.



Change of the particular in the register at the application of the Data Controllers and Data Processors



Cancellation or variation of a certificate of registration at the request of the Data Controller or Data Processor or at their own volition, for non-compliance with the Act



Issuance of a certified copy if the certificate of registration, at the request of the Data Controller or Data Processor.



Replacement of a certificate of registration at the request of the Data Controller or Data Processor

# Fees

1. Registration fees are based on an incremental scale
  - Minimum registration fee for a data controller or processor is **Kshs. 4,000** (With less than 10 employees and annual turnover/revenue of less than Kshs. 2 Million)
  - Maximum registration fee for a data controller or processor is **Kshs. 40,000** (With more than 99 employees and annual turnover/revenue of more than Kshs. 50 Million)
  - Special category charge for personal data intensive sectors is **Kshs. 20,000**

## Other fees include:

2. Approval and input of a Data Protection Impact Assessment - Kshs. 15,000
3. Provision of compliance support - Determined by the scope
4. Conduct of a compliance audit - Determined by the scope
5. Third party due diligence - Determined by the scope
6. Certified copy of an entry into the register - Kshs 500
7. Certified Copy of the registration certificate - Kshs 500
8. Updating/ change of the registration particulars - Kshs.1,000
9. Certification fees - Kshs. 250,000



# PLENARY SESSION

## Q&A

Comments and concerns can be sent to the following email address;

[dataprotectionregulations@odpc.go.ke](mailto:dataprotectionregulations@odpc.go.ke)

# The End

*Thank  
you*