

UAE's new Data Protection Law

Five things employers need to know

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Federal Decree-Law No. 45/2021 on the Protection of Personal Data

- Employer: Data Controller
- Employee: Data Subject
- Information about employees: Personal Data
- Processing: Anything an employer does with Personal Data

Law applies to:

Processing of Personal Data by:

- any employer located in the UAE who processes Personal Data of employees who are inside or outside the UAE.
- any employer located outside the UAE who processes Personal Data of employees who are inside the UAE.



Law does not apply to:

- government data
- government authorities that control or process Personal Data
- Personal Data held with security and judicial authorities
- Data Subject who processes his/her data for personal purposes
- health personal data that is subject to legislation regulating its protection and Processing
- banking and credit personal data and information that is subject to legislation regulating its protection and Processing
- employers located in free zones which are subject to their own data protection laws: ADGM, DIFC, DHCC

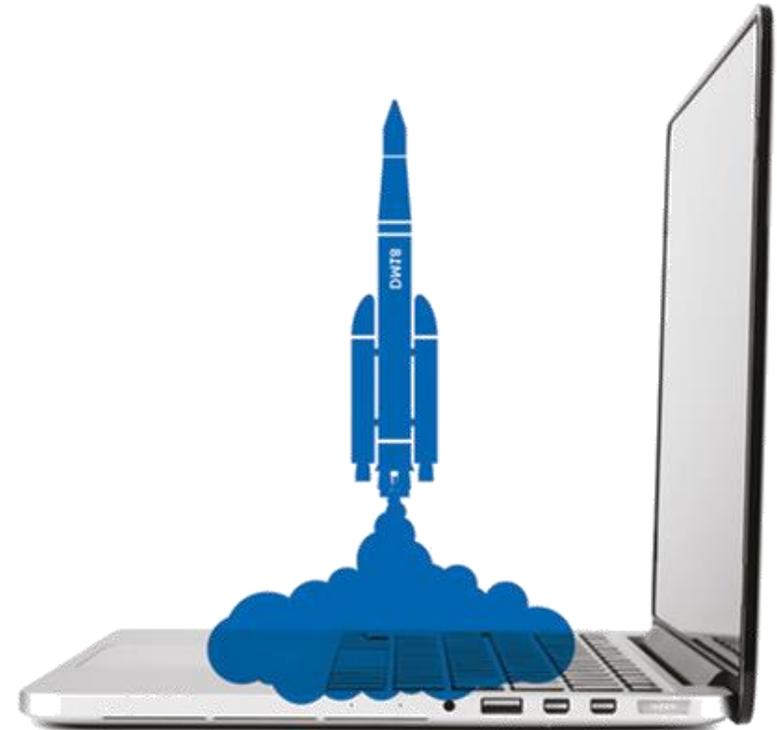


When can employers process personal data?

- With the consent of the employee
- Where allowed by the Data Protection Law

Where allowed by the Data Protection Law

- Processing is necessary for the employer to fulfil its obligations and exercise its legal rights in the field of employment...to the extent permitted by those laws
- Processing is necessary to perform a contract to which the employee is a party or to take, at the request of the employee, procedures for concluding, amending or terminating a contract



With consent

Consent must be a specific, informed and unambiguous indication of the Data Subject's agreement to the Processing of his/her Personal Data, by a statement or by a clear affirmative action.

- The employer must be able to prove the consent of the employee to process his/her Personal Data in the event that the Processing is based on consent
- The consent must be given in a clear, simple, unambiguous and easily accessible manner, whether in writing or electronic form.
- The consent must indicate the right of the employee to withdraw it and such withdrawal must be easily achieved
- The employee may, at any time, withdraw his/her consent to the Processing of his/her Personal Data

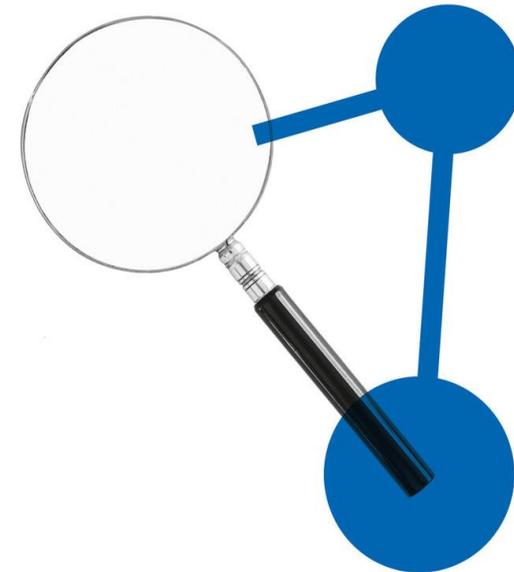
Right to information

Before Processing starts:

- purposes of Processing
- the third parties with which his/her Personal Data is to be shared (inside or outside the UAE)
- protection measures for cross-border processing

On request to the employer:

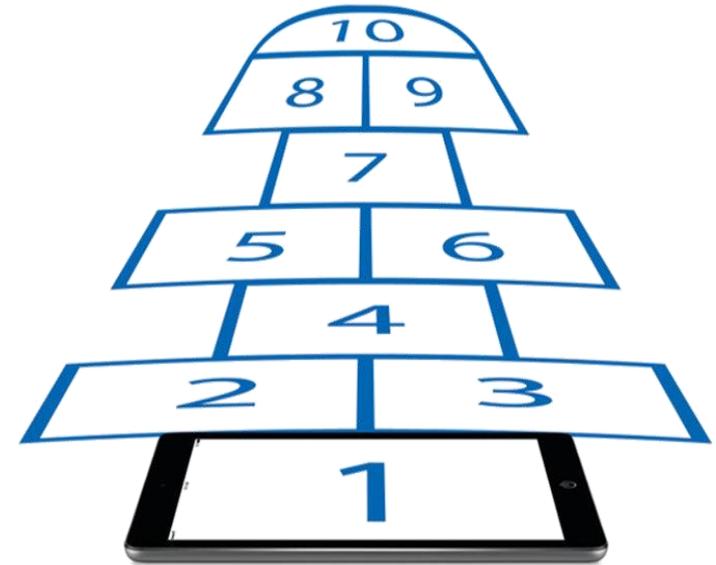
- the types of Personal Data being processed
- decisions made based on automated Processing
- controls and standards for the periods of storing and keeping his/her Personal Data
- procedures for correcting, erasing or limiting the Processing and objection to that Processing
- procedures in the event of a data breach
- the process of filing complaints with the Data Protection Office



What can employers do with personal data?

Personal Data must be:

- collected for a specific and clear purpose, and processed in a manner compatible with that purpose or for a similar purpose
- sufficient for and limited to that purpose
- accurate and correct and must be updated whenever necessary
- kept securely and protected from breach, infringement, or illegal or unauthorized Processing by appropriate technical and organizational measures and procedures
- not kept after fulfilling the purpose for Processing (unless it is anonymized)
- Appropriate measures and procedures must be in place to ensure erasure or correction of incorrect Personal Data



Transfers of personal data

Employees' Personal Data can be transferred outside the UAE if the transfer is:

- to a state which offers appropriate protection for personal data
- made under contractual terms providing for equivalent protection
- with the employee's consent
- necessary to enter into or execute a contract between the employer and employee, or between the employer and a third party to achieve the Data Subject's interest

Data Protection Officer

Employers must appoint a Data Protection Officer if the Processing:

- poses a high risk to the confidentiality and privacy of the Personal Data as a result of adopting technologies that are new or associated with the amount of data
- involves a systematic and comprehensive assessment of Sensitive Personal Data, including profiling
- will be of a large amount of Sensitive Personal Data

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