

# Amendments to KSA's Personal Data Protection Law

Legal Briefing, 25 May 2023

*Saudi Arabia has implemented amendments to its Personal Data Protection Law via Royal Decree No. M147 of 5/9/1444H, corresponding to 27<sup>th</sup> March 2023, ("DP Law") promulgated by Royal Decree No. M19/1443 (Cabinet Decision No. 98/1443). The amendments further align the DP Law with the European Union's General Data Protection Regulation. This Legal Briefing highlights the key amendments to the DP Law and its impact on businesses handling personal data in KSA.*

## A. Data Subjects Rights

In addition to confirming the rights of data subjects such as the right to be informed, the right to access data, the right to correct, update data as well as the right to request destruction of data; The DP Law has been amended to include the right to request the controller to provide the data in a readable and clear format; further details in this regard are expected to be clarified in the Implementing Regulations to the DP Law (which are yet to be published).

## B. Exception to Prohibition on Data Processing

In general, the processing of data is only permitted in certain limited cases. Previously, the DP Law focused on consent as a requirement for the processing of data. In accordance with international standards, the amended version of the DP Law introduces further instances where the processing of data is allowed, namely 'legitimate interest':

### I. Consent

While businesses cannot process data without the consent of the data subject,

the form in which the consent is to be attained is of relevance. Previously, consent had to be obtained in the 'written' form. Now, 'express' consent would be required instead of 'written'. This implies a broader means to recognizing and obtaining consent other than in writing.

### II. Legitimate Interest

Another exception in the DP Law is the introduction to the ground of 'legitimate interest' in the hands of the controller. If the controller finds it necessary to process data for achieving a legitimate interest; they may:

- 1) Process the data without consent,
- 2) Collect data not directly from the data subject & process it for purposes other than for the purpose of its collection,
- 3) Disclose personal data.

However, this ground does not apply to sensitive personal data. Even so, businesses must be mindful of obtaining the consent of the data subject as consent remains the standard case under the DP Law.

### C. Personal Data Breach Notification

Previously, controllers had to immediately notify the Saudi Data & Artificial Intelligence Authority (SDAIA) upon discovery of a breach, i.e., leak or damage of personal data. Now, the Implementing Regulations shall determine the instance of notification of a breach.

### D. Cross-Border Transfer of Personal Data

While remaining restrictive the transfer of personal data outside KSA, the DP Law has been amended to allow it for the following purposes:

- 1) To meet an obligation under an agreement to which KSA is a party;
- 2) For the interests of KSA;
- 3) To meet an obligation to which the data subject is a party;
- 4) To achieve other purposes to be determined by the Implementing Regulations.

Item (3) has particularly broadened the scope of cross-border transfers. Additionally, criminal sanctions / penalties for transferring data in violation to Article 29 or in an unauthorized manner have been retracted.

### E. Data Protection Officers (DPO)

Previously, the DP Law did not specifically mention the term DPO. Now, Article 30 has

been amended to state that the Implementing Regulations shall specify the circumstances in which a controlling entity shall appoint one (or more) person(s) as a DPO.

### F. Timeline

The DP Law will come into effect 720 days from the date of issuance of the original version of the DP Law, i.e., by mid-September 2023. Thereafter, a one-year grace period i.e., up to mid-September 2024, applies, allowing businesses to comply with the DP Law. The publication of the Implementing Regulations is expected before September 2023.

### G. Conclusion

While this update introduces several important changes to the DP Law, the Implementing Regulations are expected to contain further clarifications on conditions and procedures.

**SCHLÜTER GRAF continuously monitors the legal developments related to data protection laws in KSA, including the forthcoming Implementing Regulations. Please feel free to reach out to our dedicated KSA & data privacy team to better assist you with your queries.**

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