



Data Protection

THE MORE YOU KNOW

By Lisa Rhooms
Managing Partner
Grant, Henry & Rhooms

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Presentation Focus

Evolution of the Data Protection Act

Key Definitions

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Why comply with the Data Protection Act?

Evolution of Data Protection Act

JULY 20, 2020	DECEMBER 1, 2021- NOVEMBER 30- 2023	DECEMBER 1, 2023	JUNE 1, 2024 ONWARD
Data Protection Act passed.	2 year transition phase to allow compliance with the Act.	Transition phase ended, but six month extension given for compliance with the Act.	Data Protection Act and compliance in full force and effect.



Office of the Information Commissioner established December 1, 2021.

Key Definitions

“Data controller” means any person; or public authority, who, either alone or jointly, or in common with other persons, determines the purposes for which, and the manner in which any personal data are, or are to be, processed, and where personal data are processed only for purposes for which they are required under any enactment to be processed, the person on whom the obligation to process the personal data is imposed by or under that enactment is for the purposes of this Act a data controller.

Key Definitions

“Data subject” means a named or otherwise identifiable individual who is the subject of personal data, and in determining whether an individual is identifiable account shall be taken of all means used or reasonably likely to be used by the data controller, or any other person to identify the individual, such as reference to an identification number or other identifying characteristics (whether physical, social, or otherwise) which are reasonably likely to lead to the identification of the individual.

Key Definitions

“Personal Data” means information (however stored) relating to a living individual; or an individual who has been deceased for less than thirty years, who can be identified from that information alone, or from that information and other information in the possession of, or likely to come into the possession of, the data controller; and includes any expression of opinion about that individual and any indication of the intentions of the data controller or any other person in respect of that individual.

Key Definitions

“Process” in relation to information or personal data means obtaining, recording, or storing the information or personal data, or carrying out any operation, or set of operations (whether or not by automated means), on the information or data, including organisation, adaptation, or alteration of the information or data; retrieving, consulting or using the information or data; disclosing the information or data by transmitting, disseminating or otherwise making it available; or aligning, combining, blocking, erasing, or destroying the information or data, or rendering the data anonymous.

Key Definitions

“Sensitive personal data” means personal data consisting of any of the following information in respect of a data subject- genetic data or biometric data; filiation, or racial or ethnic origin; political opinions, philosophical beliefs, religious beliefs or other beliefs of a similar nature; membership in any trade union; physical or mental health or condition; sex life; the alleged commission of any offence by the data subject, or any proceedings for any offence alleged to have been committed by the data subject.

Who will need to comply with the Data Protection Act?

Almost every entity or person that comes into contact with the personal data, or sensitive personal data of clients, customers, employees, adherents, etc (“Data subjects”), and processes that information, for various purposes, will be caught by the Act.



Rights of a Data Subject

Right to know whether personal data is being processed

If yes, what this information is, for what purpose it is being processed, and to whom the information is being disclosed.

Right to prevent processing of data

A data subject is entitled to notify a data controller, in writing, to stop processing his/her data, or not begin. eg. where the processing will cause distress, or the information is incomplete.

Right to have inaccuracies rectified

A data subject may write to a data controller, and request that any error or omission be amended, erased, or destroyed, as required to correct the inaccuracy.

Registering as a Data Controller

Sec. 15 of the Act states clearly, a data controller shall NOT process personal data unless registered.

This registration involves the filing of Registration Particulars with the Office of the Information Commissioner.



The Registration Particulars

What the Registration Particulars must state

- The data controller's name, address, and other relevant contact information;
- if the data controller has appointed a data controller representative, the name, address, and other relevant contact information of the data controller representative;
- the name, address and other relevant contact information of the data protection officer appointed;
- a description of the personal data being, or to be, processed by or on behalf of the data controller, and the category or categories of data subjects to which they relate;
- a description of the purpose or purposes for which the personal data are being, or are to be, processed;
- a description of any recipient or recipients to whom the data controller intends, or may wish, to disclose the personal data;
- the names of any states or territories outside of Jamaica to which the data controller directly or indirectly transfers, or intends or may wish directly or indirectly to transfer, the personal data;
- such information about the data controller as may be prescribed in regulations.

The Registration Particulars Prescribed Form

The Registration Particulars must be submitted to the Information Commissioner in the form and manner as prescribed, together with the prescribed fee.

There is, however, no such prescribed form as of the date of this presentation, which is one of the reasons for the extension of the timeline to comply.

The Registration Particulars

Holding Position

As at December 1, 2023, persons required to register with the Office of the Information Commissioner (“OIC”) as the data controllers, may commence the registration process.

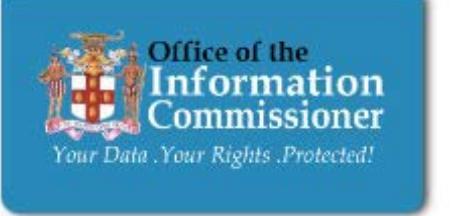
What this means, as of the date of this presentation, is visiting the website of the Office of the Information Commissioner at www.oic.gov.jm, and selecting the “My OIC Portal” tab to create an account.

The Registration Particulars

Holding Position

On clicking the “My OIC Portal” tab, you will be directed to a registration page that will request, a personal name, name of the business or organisation, an email address, and that you to create a password.

Please ensure the email is valid, as this will be the email that the OIC will send a one time verification code to complete the account creation.



Office of the
Information
Commissioner
Your Data . Your Rights . Protected!

First Name
 Enter your first name

Last Name
 Enter your last name

Organization/Business Name
 Enter your business or organization name

Email
 The email address is not made public. It will only be used if you need to be contacted about your request.
Confirm e-mail address
 Please re-type your e-mail address to confirm it is accurate

Password
 Password strength:

Confirm password
 Passwords match:
Provide a password for the new account in both fields.

Terms of Use
 I agree with the Terms of Use for this site

NEXT

The Registration Particulars

Holding Position

This registration will only set up your account on the “My OIC Portal”. There is, as of the date of this presentation, no application form that can be completed, as the Regulations establishing the form, have not been issued. Payment should also NOT be made until the registration fees have been confirmed in the Regulations.

Of note is that registration will ONLY be done through this “My OIC Portal”, and payment only by bank transfer. No paper-based applications or physical payments will be accepted.

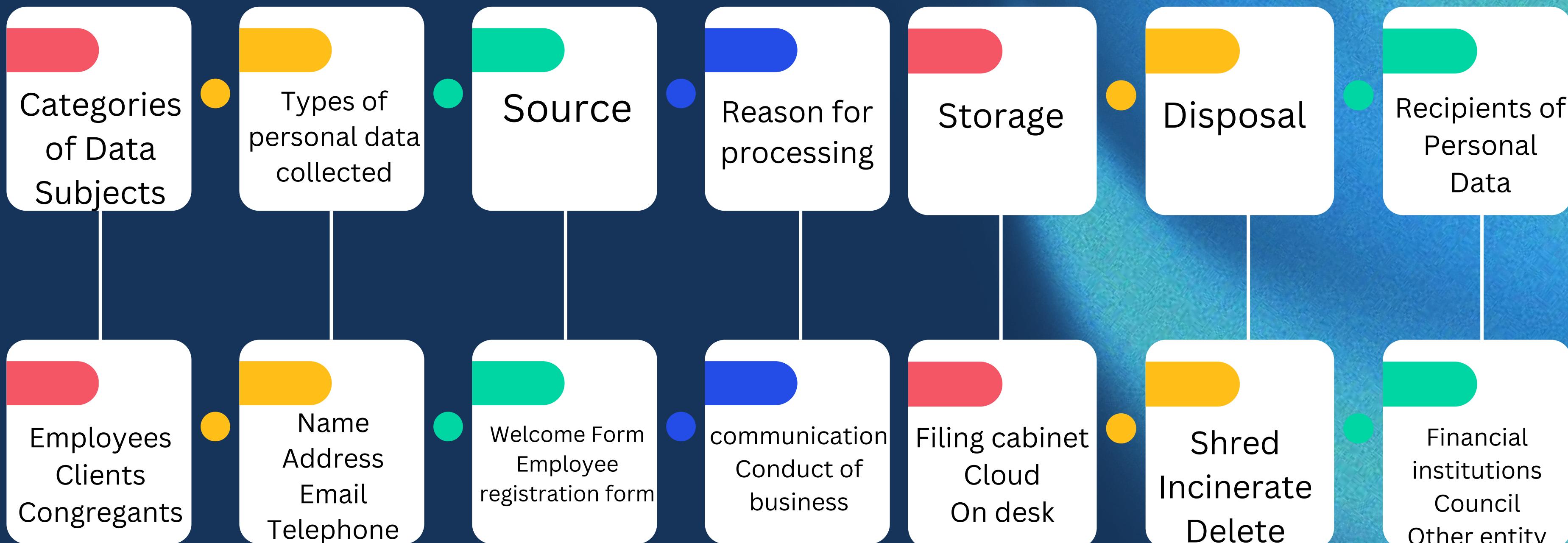
What to do in the meantime

If not yet started, during this extension, persons or entities required to register as data controllers, should be working on collecting and organising the information required to be stated in the Registration Particulars.



What to do in the meantime

Information audit



What to do in the meantime

Assess the lawful basis for processing the information

It will be important to assess and document what is the lawful basis for processing information. Some include:

- Consent
- Contract
- Legal obligation
- Legitimate interest

For consent, it will be important to look at how that consent was received. Was it opt-in, opt-out , or some combination.

Safeguarding Data

Data controllers must ensure that, in safeguarding data, the appropriate technical and organisational controls are in place.

Technical controls include cybersecurity, physical security such as locks on filing cabinets, password-protected files, and encrypted communication.

Organisational controls include implementing a data protection policy, staff training, implementing IT security policies, and conducting audits to ensure the controls are working.

The Data Protection Officer

A data controller who:

- (1) processes or intends to process sensitive personal data; or
- (2) processes personal data on a large scale

must appoint an appropriately qualified person to act as a data protection officer, with responsibility, in particular, for monitoring, in an independent manner, the data controller's compliance with the Act.

Data Protection Impact Assessment

Following registration, data controllers, on an annual basis, will be required to file a Data Protection Impact Assessment with the Commissioner. This document will identify all the personal data in custody or control of the data controller, and should be utilised to identify, assess, and minimise potential risks which may arise from the processing of personal data.

Why comply with the Data Protection Act?

IT IS THE LAW!

Additionally, there are heavy fines, and potential imprisonment for failing to comply.

There are also HUGE monetary penalties should failure to comply lead to a breach of someone's data.



Any questions?

Contact us:

GRANT, HENRY & RHOOMS
SUITE 5, 94C OLD HOPE ROAD
KINGSTON 6
876-676-6926
INFO@GHRLEGAL.COM

