

DATA PROTECTION BILL, 2015

ARRANGEMENT OF SECTIONS

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# A BILL

## FOR

AN ACT TO PROVIDE FOR PERSONAL DATA PROTECTION TO REGULATE  
THE PROCESSING OF INFORMATION RELATING TO INDIVIDUALS,  
INCLUDING THE OBTAINING, HOLDING, USE OR DISCLOSURE OF SUCH  
INFORMATION AND FOR RELATED MATTERS

*Sponsored by Rt. Hon. Yakubu Dogara*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of  
Nigeria as follows:

- 1           1. -(1) Personal data shall be-
- 2           (a) processed fairly and lawfully;
- 3           (b) obtained only for one or more specified and lawful purposes,  
4           and shall not be further processed in any manner incompatible with that  
5           purpose or those purposes;
- 6           (c) data shall be adequate, relevant and not excessive in relation to  
7           the purpose or purposes for which they are processed;
- 8           (d) accurate and, where necessary, kept up to date; and
- 9           (e) processed in accordance with the rights of data subjects under  
10          this Bill.
- 11          (2) Personal data processed for any purpose or purposes shall not  
12          be kept for longer than is necessary for that purpose or those purposes.
- 13          (3) Appropriate technical and organisational measures shall be  
14          taken against unauthorised or unlawful processing of personal data and  
15          against accidental loss or destruction of, or damage to, personal data.
- 16          (4) Personal data shall not be transferred to a country or territory  
17          outside Nigeria unless that country or territory ensures an adequate level of  
18          protection for the rights and freedoms of data subjects in relation to the  
19          processing of personal data.

Handling of  
personal data

Right of access to personal data

1                    2.-(1) An individual is entitled where such individual is a data  
2                    subject-  
3                    (a) to be informed by any data controller whether personal data are  
4                    being processed by or on behalf of that data controller,  
5                    (b) if that is the case, to be given a description by the data controller  
6                    of-  
7                    (i) the personal data of which that individual is the data subject,  
8                    (ii) the purposes for which they are being or are to be processed, and  
9                    (iii) the recipients or classes of recipients to whom they are or may be  
10                    disclosed,  
11                    (c) to be communicated to in an intelligible form-  
12                    (i) the information constituting any personal data of which that  
13                    individual is the data subject, and  
14                    (ii) any information available to the data controller as to the source of  
15                    those data, and  
16                    (d) where the processing by automatic means of personal data of  
17                    which that individual is the data subject for the purpose of evaluating matters  
18                    relating to him such as, for example, his performance at work, his  
19                    creditworthiness, his reliability or his conduct, has constituted or is likely to  
20                    constitute the sole basis for any decision significantly affecting him, to be  
21                    informed by the data controller of the logic involved in that decision-taking.  
22                    (e) (2) A data controller is not obliged to supply any information under  
23                    subsection (1) unless he has received-  
24                    (a) a request in writing, and  
25                    (b) except in prescribed cases, such fee (not exceeding the prescribed  
26                    maximum) as he may require.  
27                    (f) (3) A data controller is not obliged to comply with a request under  
28                    this section unless he is supplied with such information as he may reasonably  
29                    require in order to satisfy himself as to the identity of the person making the  
30                    request and to locate the information which that person seeks.

1           (5) Where a data controller cannot comply with the request without  
2 disclosing information relating to another individual who can be identified  
3 from that information, he is not obliged to comply with the request unless-

4           (a) the other individual has consented to the disclosure of the  
5 information to the person making the request, or

6           (b) it is reasonable in all the circumstances to comply with the  
7 request without the consent of the other individual.

8           (6) In subsection (4) the reference to information relating to  
9 another individual includes a reference to information identifying that  
10 individual as the source of the information sought by the request; and that  
11 subsection is not to be construed as excusing a data controller from  
12 communicating so much of the information sought by the request as can be  
13 communicated without disclosing the identity of the other individual  
14 concerned, whether by the omission of names or other identifying  
15 particulars or otherwise.

16           (7) In determining for the purposes of subsection (4)(b) whether it  
17 is reasonable in all the circumstances to comply with the request without the  
18 consent of the other individual concerned, regard shall be had, in particular,  
19 to-

20           (a) any duty of confidentiality owed to the other individual,

21           (b) any steps taken by the data controller with a view to seeking the  
22 consent of the other individual,

23           (c) whether the other individual is capable of giving consent, and

24           (d) any express refusal of consent by the other individual.

25           (8) An individual making a request under this section may, in such  
26 cases as may be prescribed, specify that his request is limited to personal  
27 data of any prescribed description.

28           (9) Subject to subsection (4), a data controller shall comply with a  
29 request under this section promptly and in any event before the end of the  
30 prescribed period beginning with the relevant day.

1 (10) If a court is satisfied on the application of any person who has  
2 made a request under the foregoing provisions of this section that the data  
3 controller in question has failed to comply with the request in contravention of  
4 those provisions, the court may order him to comply with the request.

Right to prevent  
processing likely  
to cause damage  
or distress

5 3.-(1) Subject to subsection (2), an individual is entitled at any time by  
6 notice in writing to a data controller to require the data controller at the end of  
7 such period as is reasonable in the circumstances to cease, or not to begin,  
8 processing, or processing for a specified purpose or in a specified manner, any  
9 personal data in respect of which he is the data subject, on the ground that, for  
10 specified reasons-

11 (a) the processing of those data or their processing for that purpose or  
12 in that manner is causing or is likely to cause substantial damage or substantial  
13 distress to him or to another, and

14 (b) that damage or distress is or would be unwarranted.

15 (2) The data controller must within twenty-one days of receiving a  
16 notice under subsection (1) ("the data subject notice") give the individual who  
17 gave it a written notice-

18 (a) stating that he has complied or intends to comply with the data  
19 subject notice, or

20 (b) stating his reasons for regarding the data subject notice as to any  
21 extent unjustified and the extent (if any) to which he has complied or intends to  
22 comply with it.

23 (3) The failure by a data subject to exercise the right conferred by  
24 subsection (1) or section 4(1) does not affect any other right conferred on him  
25 by this Part.

Right to prevent  
processing for  
purposes of  
direct marketing

26 4.-(1) An individual is entitled at any time by notice in writing to a  
27 data controller to require the data controller at the end of such period as is  
28 reasonable in the circumstances to cease, or not to begin, processing for the  
29 purposes of direct marketing personal data in respect of which he is the data  
30 subject.



1           (2) If the court is satisfied, on the application of any person who has  
2 given a notice under subsection (1), that the data controller has failed to  
3 comply with the notice, the court may order him to take such steps for  
4 complying with the notice as the court thinks fit.

5           (3) In this section “direct marketing” means the communication  
6 (by whatever means) of any advertising or marketing material which is  
7 directed to particular individuals.

8           5.-(1) An individual is entitled at any time, by notice in writing to  
9 any data controller, to require the data controller to ensure that no decision  
10 taken by or on behalf of the data controller which significantly affects that  
11 individual is based solely on the processing by automatic means of personal  
12 data in respect of which that individual is the data subject for the purpose of  
13 evaluating matters relating to him such as, for example, his performance at  
14 work, his creditworthiness, his reliability or his conduct.

Rights in relation  
to automated  
decision-taking

15           (2) Where, in a case where no notice under subsection (1) has  
16 effect, a decision which significantly affects an individual is based solely on  
17 such processing as is mentioned in subsection (1)-

18           (a) the data controller must as soon as reasonably practicable notify  
19 the individual that the decision was taken on that basis, and

20           (b) the individual is entitled, within twenty-one days of receiving  
21 that notification from the data controller, by notice in writing to require the  
22 data controller to reconsider the decision or to take a new decision otherwise  
23 than on that basis.

24           (4) The data controller must, within twenty-one days of receiving a  
25 notice under subsection (2)(b) (“the data subject notice”) give the individual  
26 a written notice specifying the steps that he intends to take to comply with  
27 the data subject notice.

28           (5) If a court is satisfied on the application of a data subject that a  
29 person taking a decision in respect of him (“the responsible person”) has  
30 failed to comply with subsection (1) or (2)b), the court may order the

- 1 responsible person to reconsider the decision, or to take a new decision which  
2 is not based solely on such processing as is mentioned in subsection (1).
- 3           6.-(1) An individual who suffers damage by reason of any  
4 contravention by a data controller of any of the requirements of this Bill is  
5 entitled to compensation from the data controller for that damage.
- 6           (2) An individual who suffers distress by reason of any contravention  
7 by a data controller of any of the requirements of this Bill is entitled to  
8 compensation from the data controller for that distress if-
- 9           (a) the individual also suffers damage by reason of the contravention;  
10           (b) the contravention relates to the processing of personal data for the  
11 special purposes.
- 12           (3) In proceedings brought against a person by virtue of this section it  
13 is a defence to prove that he had taken such care as in all the circumstances was  
14 reasonably required to comply with the requirement concerned.
- 15           7.-(1) If a court is satisfied on the application of a data subject that  
16 personal data of which the applicant is the subject are inaccurate, the court may  
17 order the data controller to rectify, block, erase or destroy those data and any  
18 other personal data in respect of which he is the data controller and which  
19 contain an expression of opinion which appears to the court to be based on the  
20 inaccurate data.
- 21           (2) Subsection (1) applies whether or not the data accurately record  
22 information received or obtained by the data controller from the data subject or  
23 a third party.
- 24           8.-(1) A person must not knowingly or recklessly, without the consent  
25 of the data controller-
- 26           (a) obtain or disclose personal data or the information contained in  
27 personal data, or  
28           (b) procure the disclosure to another person of the information  
29 contained in personal data.
- 30           (2) Subsection (1) does not apply to a person who shows-
- Compensation  
for failure to  
comply with  
certain  
requirements
- Rectification,  
blocking,  
erasure and  
destruction
- Unlawful  
obtaining etc.  
of personal data

1 (a) that the obtaining, disclosing or procuring-  
2 (i) was necessary for the purpose of preventing or detecting crime;  
3 (ii) was required or authorised by or under any enactment, by any  
4 rule of law or by the order of a court.

5 (b) that he acted in the reasonable belief that he had in law the right  
6 to obtain or disclose the data or information or, as the case may be, to procure  
7 the disclosure of the information to the other person,

8 (c) that he acted in the reasonable belief that he would have had the  
9 consent of the data controller if the data controller had known of the  
10 obtaining, disclosing or procuring and the circumstances of it, or

11 (d) that in the particular circumstances the obtaining, disclosing or  
12 procuring was justified as being in the public interest.

13 (3) A person who contravenes subsection (1) is guilty of an offence.

14 (4) A person who sells personal data is guilty of an offence if he has  
15 obtained the data in contravention of subsection (1).

16 (5) A person who offers to sell personal data is guilty of an offence  
17 if-

18 (a) he has obtained the data in contravention of subsection (1), or

19 (b) he subsequently obtains the data in contravention of that  
20 subsection.

21 (6) For the purposes of subsection (5), an advertisement indicating  
22 that personal data are or may be for sale is an offer to sell the data.

23 (7) Section 1(2) does not apply for the purposes of this section; and  
24 for the purposes of subsections (4) to (6), "personal data" includes  
25 information extracted from personal data.

26 *Records obtained under data subject's right of access*

27 9. -(1) A person must not, in connection with-

28 (a) the recruitment of another person as an employee,

29 (b) the continued employment of another person, or

Prohibition of  
requirement as  
to production of  
certain records



1 (c) any contract for the provision of services to him by another person,  
2 (1) require that other person or a third party to supply him with a  
3 relevant record or to produce a relevant record to him.

4 (2) A person concerned with the provision (for payment or not) of  
5 goods, facilities or services to the public or a section of the public must not, as a  
6 condition of providing or offering to provide any goods, facilities or services to  
7 another person, require that other person or a third party to supply him with a  
8 relevant record or to produce a relevant record to him.

9 (3) Subsections (1) and (2) do not apply to a person who shows-

10 (a) that the imposition of the requirement was required or authorised  
11 by or under any enactment, by any rule of law or by the order of a court, or

12 (b) that in the particular circumstances the imposition of the  
13 requirement was justified as being in the public interest.

14 (4) A person who contravenes subsection (1) or (2) is guilty of an  
15 offence.

16 (5) In this section "a relevant record" means any record which-

17 (a) has been or is to be obtained by a data subject from any data  
18 controller, and

19 (b) contains information relating to any matter specified in relation to  
20 that data controller.

21 2. and includes a copy of such a record or a part of such a record.

Interpretation

22 **10.** In this Act, unless the context otherwise requires-

23 "accessible data" means

24 \* a health record as defined in this Bill,

25 \* an educational record, or

26 \* an accessible public record.

27 "data" means information which is -

28 (a) being processed by means of equipment operating automatically  
29 in response to instructions given for that purpose,

30 (b) recorded with the intention that it should be processed by means of

1 such equipment,

2 (c) recorded as part of a relevant filing system or with the intention

3 that it should form part of a relevant filing system, or

4 (d) does not fall within paragraph (a), (b) or (c) but forms part of an

5 accessible record.

6 "The Data Controller" is a person who (either alone or jointly or in common

7 with other persons) determines the purposes for which and the manner in

8 which only personal data are, or are to be processed;

9 "data subject" means an individual who is the subject of personal data;

10 "health record" means any record which-

11 \* consists of information relating to the physical or mental health or

12 condition of an individual, and

13 \* has been made by or on behalf of a health professional in connection with

14 the care of that individual.

15 "personal data" means data which relate to a living individual who can be

16 identified-

17 (e) from those data, or

18 (f) from those data and other information which is in the possession

19 of, or is likely to come into the possession of, the data controller, and

20 includes any expression of opinion about the individual and any indication

21 of the intentions of the data controller or any other person in respect of the

22 individual;

23 "processing", in relation to information or data, means obtaining, recording

24 or holding the information or data or carrying out any operation or set of

25 operations on the information or data, including-

26 (g) organisation, adaptation or alteration of the information or data,

27 (h) retrieval, consultation or use of the information or data,

28 (i) disclosure of the information or data by transmission,

29 dissemination or otherwise making available, or

30 (j) alignment, combination, blocking, erasure or destruction of the

1 information or data;  
2 “obtaining” or “recording”, in relation to personal data, includes obtaining or  
3 recording the information to be contained in the data, and  
4 “using” or “disclosing”, in relation to personal data, includes using or  
5 disclosing the information contained in the data.  
6 “sensitive personal data” means personal data consisting of information as to-  
7 (k) the racial or ethnic origin of the data subject,  
8 (l) his political opinions,  
9 (m) his religious beliefs or other beliefs of a similar nature,  
10 (n) whether he is a member of a trade union,  
11 (o) his physical or mental health or condition,  
12 (p) the commission or alleged commission by him of any offence, or  
13 (q) any proceedings for any offence committed or alleged to have  
14 been committed by him, the disposal of such proceedings or the sentence of any  
15 court in such proceedings.

Citation

16 **11.** This Bill may be cited as The Data Protection Bill, 2015.

#### EXPLANATORY MEMORANDUM

This Bill seeks to make provision for the regulation of the processing of information relating to individuals.