



SALIENT PROVISIONS OF THE NIGERIA DATA PROTECTION ACT GENERAL APPLICATION AND IMPLEMENTATION DIRECTIVE, 2025



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INTRODUCTION

On March 20, 2025, the Nigeria Data Protection Commission (the “Commission”) issued the Nigeria Data protection Act General Application and Implementation Directive (the “GAID”). The GAID seeks to provide certainty in legal obligations, particularly when the rights and freedoms of natural persons may be at risk, in the absence of such certainties. It also seeks to advance the fundamental rights and freedoms of natural persons. Importantly, the GAID has added to the body of legal instruments guiding data protection and privacy in Nigeria. In this article, we shall highlight some of the salient provisions of the GAID.

1. Guidance on Question of Data Subject Rights and Domiciliation of Data Controller or processor

The GAID enumerates categories of data subjects to enjoy data subject rights under the Nigeria Data Protection Act, 2023 (“NDPA”).¹ It emphasizes that natural persons are entitled to the protection of their fundamental rights anywhere in the world. Hence, data subject rights can be exercised by data subjects who are within Nigeria irrespective of nationality or immigration status, including data subjects whose data is transferred to Nigeria, or whose personal data is in transit through Nigeria. Data subjects who are Nigerians, although not within Nigeria can also exercise their data subject rights. However, the obligations of data controllers and data processor in relation to Nigerian citizens not within Nigeria, is limited to the terms of mutual legal assistance and applicable international law.

2. Cessation of the Applicability of the Nigeria Data Protection Regulation 2019 and its Implementation Framework

The provisions of the Nigeria Data Protection Regulation, 2019 (“NDPR”) will no longer be applicable.² The implication of the cessation of the applicability of the NDPR is that its Implementation Framework will also cease to apply. However, this does not affect anything done under the NDPR, prior to the issuance of the GAID.

3. Conduct Constituting Risk by Individual Processing for Household Purposes

¹ Article 1 of the General Application and Implementation Directive, 2025

² Article 3(3) of the General Application and Implementation Directive, 2025



Individuals or persons processing personal data solely for household purposes are exempted from the provisions of the NDPA, provided that the processing does not constitute a violation of the fundamental rights to privacy of data subjects³. However, such a processor may be held accountable for the conduct which puts the privacy of a data subject at risk. Such conduct includes granting permission to data controllers or data processors to access contacts on phones through the use of software or digital applications; sharing data to any person or platform for any reason; verbal or written disclosure of personal data; or unauthorized access to personal data of any person.⁴

4. Compliance Measures by Data Controllers and Data Processors

The GAID enumerates 23 compliance measures by data controllers and data processors.⁵ The obligations include registration with the Commission as a data controller or data processor of major importance; conduct of a data privacy compliance audit; preparation of schedule of compliance, semi-annual data protection report and schedule of compliance; publication of privacy policies, privacy notices and cookie policy on its platforms; designation of a Data Protection Officer; and conduct of a Data Privacy Impact assessment when needed.

5. Registration as a Data Controller or Processor of Major Importance

A data controller or data processor of major importance that falls in the category of Ultra High Level or Extra High Level is required to register once and further required to file Compliance Audit Returns (“CAR”) annually. A data controller or data processor in the Ordinary High Level is required to renew its registration annually and shall not be required to file annual CAR when it renews its registration. The Guidance Notice on the Registration of Data Controllers and Data Processors of Major Importance has been reproduced in Schedule 7 of the GAID

6. Compliance Audit Returns Filing

Data controllers and data processors of major importance established before June 12, 2023, are expected to file CAR not later than March 31 each year, while those established after June 12, 2023, are expected to file CAR within 15 months after its establishment and then annually. Data controllers and data processors of major importance within the category of Ordinary High Level are exempt from filing CAR.⁶ Schedule 10 of the GAID does not stipulate any filing fee for data controllers and data processors of major importance within the category of Ordinary High Level. The filing fees for the Ultra High Level range from ₦500,000 to ₦1,000,000, while the prescribed fees for the Extra High Level category range from ₦100,000 to ₦250,000, depending on the number of data subjects.

7. Designation of Data Protection Officers

³ Section 3 of the Nigeria Data Protection Act, 2023

⁴ Article 6 of NDP Act GAID, 2025

⁵ Article 7 of the General Application and Implementation Directive, 2025

⁶ Articles 9(3) and 10 (10) of the General Application and Implementation Directive, 2025



Data controllers and data processors are required to publish the contact details of the Data Protection Officer (“DPO”) and communicate same to the Commission.⁷ Data controllers and data processors have the obligation of ensuring that the DPO is provided the necessary resources to carry out data protection tasks, ensure access to personal data protection activities and processing operation. Data controllers and data processors are to provide continuous training for the designated DPO. While the DPO is immune from dismissal or penalty for performing his or her tasks, the DPO is bound by secrecy and confidentiality.⁸ The Commission is to create a database of Certified DPOs who are designated by data controllers and data processors.

8. Lawful Basis for Data Processing

The GAID provides elaborate provisions on the lawful basis for data processing. In relation to consent, a data controller is expected to keep a proper record of consent, guaranteeing accountability.⁹ A data subject may give an implied or constructive consent in certain circumstances including acts of participation in a public event and the pictures taken in that event may be used for a report of that event. However, the images cannot be used for profit or commerce-oriented advertisement without the express consent of the data subject. Article 18 provides for 6 circumstances where consent must be used as a basis for processing personal data. Where contract is used as the basis for data processing, no clause in the contract shall oust the adjudicatory jurisdiction of Nigerian Court or the executive jurisdiction of the Commission, as such a provision will be void¹⁰. Where a contract does not materialize, any personal data collected in relation to a data subject shall be deleted within 6 months, unless there are justifiable grounds for archiving the data or any future legal claim.¹¹

9. Data Privacy Impact Assessment

The GAID enumerates 15 circumstances where a Data Privacy Impact Assessment (“DPAI”) must be conducted and filed with the Commission.¹² These circumstances include evaluation or scoring; automated decision making with legal or significant effects; systemic monitoring; cross border transfer and health care services. The DPIA is to be conducted in accordance with schedule 4 of the GAID. Where a processing which requires the conduct of a DPIA has commenced before the issuance of the GAID, a DPIA is to be carried out within six months of the issuance of the GAID.

10. Rectification of Personal Data

Data controllers and data processors are to ensure that their platforms provide effective opportunity for data rectification. Where the rectification is to bring the data into alignment with the personal data relating to the data subject’s National Identification Number, the provision of an affidavit or a

⁷ Article 11(2) of the General Application and Implementation Directive, 2025

⁸ Article 12(7) of the General Application and Implementation Directive, 2025

⁹ Article 17(6) of the General Application and Implementation Directive, 2025

¹⁰ Article 21 (4) of the General Application and Implementation Directive, 2025

¹¹ Article 21 (2) of the General Application and Implementation Directive, 2025

¹² Article 28 of the General Application and Implementation Directive, 2025



publication in a newspaper may be dispensed.¹³ Where the data controller or data processor is responsible for the error in personal data, the data subject shall not be required to pay for the correction of the data. The data controller or data processor has the burden of proving that sufficient opportunity was provided for verification of personal data before submission.

11. Standard Notice to Address Grievances

The Commission has introduced the use of Standard Notice to Address Grievances (“*SNAG*”).

¹⁴The SNAG which is provided in Schedule 9 of the GAID allows a data subject to issue a SNAG to a data controller or a data processor where the data subject reasonably believes that the data controller violated his or her right to data privacy. The SNAG serves as a standardized template for demanding internal remediation and does not constitute a condition precedent for lodging a direct complaint with the Commission or instituting an action.

12. Emerging Technologies

Data controllers and data processors who deploy or intend to deploy Emerging Technologies such as Artificial Intelligence, Internet of Things and Blockchain for the purpose of processing are to take into consideration the provisions of the NDPA, public policy, GAID, and any other instrument issued by the Commission.¹⁵ They are also expected to set forth technical and organizational parameters for the processing, in order design its ET tools in accordance with the threshold permitted by law.

CONCLUSION

The issuance of GAID by the NDPC has been a significant milestone since the enactment of the NDPC. It also demonstrates the resolve of the NDPC in ensuring continuous improvement on existing legal instruments regulating data protection in Nigeria. To effectively implement the provisions of the GAID, entities engaged in the processing of personal data are encouraged to seek proper legal advisory from professionals in the data privacy landscape, to ensure that their practices align with the extant requirements of the law.

¹³ Article 36(3) of the General Application and Implementation Directive, 2025

¹⁴ Article 39 of the General Application and Implementation Directive, 2025

¹⁵ Article 43 of the General Application and Implementation Directive, 2025



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