

## THE UNITED REPUBLIC OF TANZANIA

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## ACT SUPPLEMENT

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THE PROTECTION OF PERSONAL INFORMATION ACT, 2022  
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UNITED REPUBLIC OF TANZANIA



N.A. January 11, 2022

I AGREE,

SAMIA SULUH HASSAN

*President*

27 November, 2022

Law for setting conditions on the basics of protection of personal information with the aim of setting a minimum level of requirements for the collection and processing of personal information, establishing a Commission for the Protection of Personal Information, strengthening the protection of personal information processed by Government agencies and institutions personal, and other related issues.

ENACTED by the Parliament of the United Republic of Tanzania.

PART ONE  
PRELIMINARY CONDITIONS

Name and take effect

1. This Act will be known as the Personal Information Protection Act of 2022 and will come into force on a date that the Minister will appoint by notice in the Government Gazette.

Usage

2. This law will be used in Tanzania Mainland and Tanzania Zanzibar except for Tanzania Zanzibar it will not be used for non-union matters.

Translation

3. In this Act, unless the context otherwise requires—

"personal information protection officer" means a person appointed by the collector or processor and given the responsibility to ensure the implementation of

the obligations specified in this Law; "codes of ethics" means the codes that determine the ethics and taboos of processors and collectors of personal information prepared in accordance with article 65; "court" means a court with jurisdiction to hear the matter in question; "processor" means a person, entity or public institution that processes personal information for and on behalf of the collector under the instructions of the collector, except for persons who, under the direct authority of the collector, are permitted to process personal information, and will include his representative; "data subject" means the subject of personal information processed in accordance with this Law;

"Chief Executive Officer" means the Chief Executive Officer of Commission appointed under section 11;

"collector" means a person, individual institution or public institution that alone or together with other institutions determines the purposes and methods of personal information processing; and where the purposes and methods of processing are specified in the law, the "collector" is a person, entity or public institution appointed in accordance with the law and will include its representative; "recipient" means a person, entity, public institution or any other person who receives personal information from the collector; "health professional" means a person who provides health services and is recognized as such in accordance with the law; "child" has the meaning as defined in the Act

Chapter 13

A child;

"another person" means a person, institution, person or institution of the public other than- (a) the subject of the information; (b) the collector or processor; and (c) any person authorized to process

personal

information; "document" means any medium in which information is recorded, whether printed or contained on tape or film or by electronic means or otherwise and includes maps, drawings, photographs, films, microfilms, videotapes, sound recordings or readable recordings to a machine or record capable of being produced from a machine-readable record by means of hardware or software, or a combination of both, used by a collector for record-keeping purposes; "register" means the register established by the Commission in accordance with section 15; "personal information" means information about an identifiable person held in any form, including-

(a) personal information relating to an individual's race, national or ethnic origin, religion, age or marital status; (b) personal information regarding education, medical, criminal or employment history; (c) any identification number, mark or other special form that identifies an individual; (d) the person's address, fingerprints or blood type

personal;

(e) the name of an individual that appears in the personal information of another person related to him or where the disclosure of that name will reveal the personal information of the person; (f) information sent to the collector of personal information by a person, which it is clear that the information is personal or confidential, and responses to the information may reveal the content of the previous information, and the view or opinion of any other person about the subject of the information ; "sensitive personal information" includes- (a) genetic information, information relating to children, information relating to errors, financial transactions of an individual or security measures, biometric information;

(b) if processed, is personal information indicating racial or ethnic origin, political ideology, religious or philosophical beliefs, affiliation, trade union membership, gender and health information or sexual relationships; and

(c) any personal information that according to the laws of the country is considered to have a significant impact on the rights and interests of the subject of the information; "genetic information" means any personal information resulting from genetic analysis;

"Commission" means the Personal Information Protection Commission established under section 6; "processing" means the analysis of personal information, by automated means or otherwise, such as collecting, recording or holding personal information or performing analysis on personal information, including- (a) reorganizing, retrieving and using it as is or change them; (b) return or use them; or (c) coordinate, combine, prevent use

his, delete or destroy them; "export of personal information abroad" means any international, cross-border transfer of personal information by electronic or other means; and "Minister" means the Minister responsible for communication issues.

Objectives of Law

4. The objectives of this Act are-

(a) to control the collection and processing of information personal;

(b) to ensure that the collection and processing of personal information of the information subject is guided by the principles laid down in This law; (c)

protect the privacy of individuals; (d) to establish legal and institutional arrangements for protect personal information; and

(e) to give the information parties rights and relief in protecting personal information from collection and processing that does not comply with the provisions of this Law.

Basics of  
personal information  
protection

5. The collector or processor shall ensure that personal information-

(a) is processed lawfully, fairly and transparently; (b) are collected for a specific, specified and legitimate purpose, and such information will not continue to be processed in a manner different from the specified purpose; (c) are sufficient and necessary for the purposes of the processing as intended; (d) are correct and where necessary, are improved by taking all necessary measures to ensure that incorrect personal information is deleted or corrected without delay; (e) are stored in a manner that allows the identification of the subject of the information for a period not exceeding that required for the purpose of processing the relevant personal information; (f) are processed in accordance with the rights of the data subject; (g) are processed in a manner that will ensure the security of personal information, including protection against unauthorized or illegal processing and against any loss, damage or harm, using appropriate technical or administrative measures; and (h) are not transported outside the borders of the opposite country

of the provisions of this Law.

## PART TWO

### PERSONAL INFORMATION PROTECTION COMMISSION

Establishment of  
Defense Commission  
of Information  
Personally

6.-(1) A Commission to be known as the Commission is established of Personal Information Protection.

(2) The Commission will be a self-sustaining institution with the authority of permanent inheritance and its acknowledgment, and in its name

shall have the power to- (a)

own movable and immovable property, grant property <sup>already</sup> and enter into any other contracts or agreements; (b) sue or be sued; and (c) perform any other duty that any legal entity may perform for the purpose of the effective performance of its duties under this Act.

Duties of  
Commission

7. The duties of the Commission will be-

(a) to monitor the implementation of this Law for collectors and processors; (b) to register collectors and processors in accordance with this Act; (c) receive, investigate and process complaints about alleged violations of the protection of personal information and people's privacy; (d) investigate and take action against anything that the Commission deems to affect the protection of personal information and privacy of people; (e) provide education to the public as appropriate for the purpose of implementing this Act; (f) conducting research and monitoring the development of technology related to information processing; (g) establish a cooperation mechanism with the authorities of other countries that manage the protection of personal information and advise the Government on various issues related to the implementation of this Law; and (h) perform other duties of the Commission for the effective implementation of the provisions of this Law.

Establishment of  
Board

8.-(1) A Board is established to be known as the Board of the Commission for the Protection of Personal Information which will be the management body of the Commission and which will have seven members as follows: (a) Chairman and Vice Chairman; and (b) five other members.

(2) The Chairman and Vice Chairman will be appointed

and the President based on the procedure that if the Chairman is from one side of the United Republic, the Vice Chairman will be from the other side of the United Republic.

(3) Five other members under subsection (1)(b) will be appointed by the Minister from among people with qualifications and experience in the area of IT, law, engineering, finance or administration.

(4) In order to maintain the integrity of the Commission and for the purpose of avoiding conflict of interest, a person will not have the qualifications to be appointed as a member of the Commission if due to the type of power he has he may have influence on the Commission.

(5) The Director General of the Commission shall be the secretary of the Board.

(6) Other issues regarding the Board and the operation of its activities shall be as specified in the Table.

#### Duties of Board

9.-(1) The Board will oversee the performance of the Commission to ensure that the performance complies with the laws and procedures of the Commission.

(2) Without prejudice to the generality of subsection (1), The Board shall be responsible for-

- (a) providing strategic guidelines and creating policies for the operation and management of the Commission; (b) managing the activities and performance of the Commission's management; (c) ensure the efficient use of resources, including the approval of the annual work plan, the annual budget and the supplementary budget;
- (d) approve the Commission's investment plans; (e) approving the Commission's performance reports; (f) approving the code of conduct for Commission employees; (g) to approve and manage financial management procedures and service rules

Commission;

- (h) to authorize the disposal of the assets of the Commission; and (i) perform any other duty in proportion

As the Commission deems appropriate to fulfill its objectives in accordance with this Law.

Board Committees

10. The Board may, for the purpose of carrying out its duties effectively, create and appoint from among its members, any committees as it deems appropriate.

Selection of  
Director  
Chief

11.-(1) There will be a Director General of the Commission who will be appointed by the President.

(2) A person shall be appointed as Director General if has the following characteristics:

- (a) has graduated from a recognized university and has at least a bachelor's degree in the fields of IT, engineering, law, economics, finance or administration; (b) has at least ten years of service experience in at least one of the fields mentioned in paragraph (a); and (c) has knowledge or expertise in the field of information protection.

The  
tenure of  
Director  
Chief

12. The Director General will hold office for a period of five years and after that period ends, he can be re-appointed for one more period.

Servants of  
Commission

13.-(1) The Commission, in accordance with the public service laws, will hire employees in the number required for the purpose of the effective implementation of the Commission's duties.

(2) The Commission may appoint consultants and experts in various disciplines based on the criteria and conditions to be set by the Commission.

### PART THREE

#### REGISTRATION OF INFORMATION COLLECTORS AND PROCESSORS

##### PERSONAL

Registration  
of collectors and  
processors

14.-(1) A person shall not collect or process personal information without being registered as a collector or processor under this Act.

(2) A person who intends to collect or process

information he will submit a registration application to the Commission.

(3) The Commission may, within the time specified in the regulations, accept or reject applications submitted in accordance with subsection (2).

(4) The Commission shall issue a registration certificate to a collector or processor who has met the registration requirements and is registered under this section.

(5) If the Commission rejects the application for registration, it should inform the applicant in writing about its decision and the reason for that decision.

Register of  
collectors and  
processors

15.-(1) The Commission shall establish and maintain a register of collectors and processors registered in accordance with this Act.

(2) Register of collectors and processors shall include information as specified in the regulations.

(3) The collector or processor may, at any time, apply to the Commission to update or change any information entered in the register.

Registration  
period

16.-(1) The registration period will be five years from the date of issue of the registration certificate.

(2) Applications to renew the registration shall be submitted within a period of three months before the date of expiry of the registration period as specified in the regulations.

Inspection of  
registered information

17. In accordance with the procedure specified in the regulations and after payment of the specified fee, the Commission may allow anyone to search and download any information entered in the register.

Cancellation of  
registration

18. The Commission may cancel the registration made under This law will be specified in the regulations.

Errors  
related to  
registration

19. A person who violates the provisions of this Section or provides false or misleading information during registration or renewal commits an offense and if convicted, will be liable for the penalty specified in section 63.

Appeal  
in relation to

20. Any person who is not satisfied with the decision of

registration

The Commission under this Part may submit an appeal in writing to the Minister.

Registration of public institutions

21. Once this Law comes into force, public institutions dealing with the collection and processing of personal information will be deemed to have been registered under this Law and will have to comply with the provisions of the Law.

## SECTION FOUR

## COLLECTION, USE, DISCLOSURE AND STORAGE OF PERSONAL INFORMATION

22.-(1) This section shall apply to-

Collection of personal information

(a) any collection and processing of personal information carried out for all or part of the information by electronic or non-electronic means electronically; (b) the processing of personal information carried out in the implementation of the duties of a collector residing in the United Republic or in a place where the laws of the United Republic are applied in accordance with international laws; (c) the processing of personal information carried out by a collector or processor residing outside the United Republic, if the processing has taken place in the country and not for the purpose of transferring personal information to another country.

(2) The collector shall collect personal information if-

(a) the personal information is collected for a legitimate purpose related to the work of the collector; and (b) the collection of personal information is necessary or derived from, or directly related to, a legitimate purpose.

(3) The Collector shall not collect personal information by unlawful means.

Source and provision of personal information

23.-(1) Subject to subsection (3), the collector shall collect personal information directly from the subject of the information.

(2) Before collecting personal information, the collector shall ensure that the subject

(a) recognizes the purpose of the collection of personal information; (b) is aware that the collection of personal information is for an authorized purpose; and (c) knows the recipients of the personal information

those intended.

(3) The Collector will not have to comply with subsection (1) if- (a) the relevant personal information has already been made public; (b) the subject of the personal information has authorized his information to be collected from another person; (c) its implementation has failed in the relevant circumstances; (d) its non-implementation is in accordance with the law; and (e) its implementation may affect the purpose of collection.

Accuracy of personal information

24. Considering the purpose for which personal information is proposed to be used, the collector who has personal information will not use that information for the existing environment without taking steps that ensure that the information is complete, correct, consistent with the content and not misleading.

Personal information used for the intended purpose

25.-(1) Personal information collected in accordance with These rules will be used for their intended purpose.

(2) If the collector has personal information that he has collected for a specific purpose, he can use that information for other purposes if- (a) the party has authorized the use of the information

personally for that purpose;

(b) the use of personal information for that purpose is authorized or required by law; (c) the purpose for which personal information has been used is directly related to the purpose of collecting that information;

(d) personal information is

used- (i) in such a way that the subject is not identified;

At

(ii) for statistical or research purposes and

will not be published in a manner that could identify the subject; (e) the collector believes for reasonable reasons that the use of personal information for that other purpose is necessary to prevent or reduce harm to the life or health of the person concerned or another person, or to the health or safety of society; or (f) the use of personal information for other purposes that are necessary in compliance with the law.

Limits on disclosure of personal information

26. If the collector has personal information, he will not disclose that information to a person other than the subject of the information, except for the circumstances specified in article 25.

Security of personal information

27.-(1) The collector and his representatives will ensure that personal information is protected, by taking the necessary security measures for the safety of such information against careless loss or destruction, conversion, access or processing of personal information without authorization.

(2) The security measures to be taken in accordance with subsection (1) should ensure the level of security required by considering-

(a) technological change and the costs of implement those measures; and

(b) the type of personal information that should be protected and the harm that may occur to the subject of the information.

(3) The collector or processor will have to appoint a personal information protection officer who will ensure that regulatory and security measures are taken to protect the personal information collected or processed.

(4) The implementation of the activities of the processor will be governed by a contract that will specify the relationship between the processor and the collector in such a way that the processor will carry out his activities under the instructions of the collector,

and that in addition to that, the processor will have the responsibility to ensure that he complies with the same security standards as directed by this Law.

(5) The Collector shall have the duty to notify the Commission, as soon as possible, of any breach of security affecting personal information processed on behalf of the Collector.

Storage and  
provision of personal  
information

28.-(1) If the collector uses personal information for a special purpose as stipulated in section 25, he will be required to keep the information for the period specified in the existing laws or for the period that will be specified in the regulations to ensure that the subject of the information has the opportunity to access the information when he needs them.

(2) Based on sub-section (1), the Minister may, in principle, coordinate the procedures for the storage and destruction of personal information held by the collector based on the purpose of storage.

Correction of  
personal information

29.-(1) If in the documents or files whose access is permitted under this Law there is personal information that the subject of the information claims to be-

- (a) are incomplete, inaccurate or misleading; or (b) are inconsistent with the purpose of information storage

concerned, the collector, in accordance with the procedure to be specified in the regulations, and after receiving the request of the subject of the information and being satisfied with it, can modify the information.

(2) The Collector, when making corrections to personal information under this section, shall ensure that he does not delete the written record of the documents as they were before the correction.

(3) If the collector is not satisfied with the reasons for the application under subsection (1), he may refuse to make any corrections to the personal information and inform the applicant of the reasons for rejecting the application.

Prohibition  
of processing of  
sensitive personal  
information

30.-(1) A person shall not process sensitive personal information without the written consent of the subject of the information.

(2) Consent under subsection (1) may be withdrawn by the data subject at any time and without any explanation or cost.

(3) The Minister, through regulations, may determine the circumstances in which the prohibition of the processing of personal information described under this article will not be able to be modified even with the consent of the subject of the information.

(4) If the subject of the information whose consent is requested for the purposes of this Law is a child, a person of unsound mind or any other person who is incapable of giving consent, the consent of that person shall be obtained from his parent, guardian, heir, attorney or any other legally recognized person on his behalf who must give consent.

(5) Subsection (1) shall not apply if- (a) the processing is necessary for compliance with other laws; (b) the processing is necessary to protect the important interests of the data subject or of another person, if the data subject cannot give his consent or is not represented by his legal representative; (c) the processing is necessary for the filing, operation or defense of legal claims; (d) the processing relates to personal information disclosed to the public by the data subject;

(e) the processing is necessary for the purposes of scientific research and the Commission, with specific guidelines, has defined the circumstances in which such processing can take place; or (f) the processing is necessary for medical purposes in the interest of the subject of the information, and the sensitive personal information involved, is processed under the supervision of a health professional in accordance with the law governing such services.

#### PART FIVE

## EXPORT OF PERSONAL INFORMATION ABROAD

Exporting  
personal  
information to a  
country with protection of  
enough  
personal information

31.-(1) The Commission may, subject to the provisions of this Law, prevent the export of personal information abroad.

(2) Personal information will be exported to a country with a legal system that provides adequate protection of personal information where- (a) the recipient determines that the personal information is necessary for the performance of a duty in the public interest or in accordance with the legitimate activities of the information collector personal; or (b) the recipient determines the necessity of exporting the information and there is no reason to assume that the legitimate interests of the subject of the information may be affected by the export or processing in the receiving country.

(3) The Collector shall, notwithstanding subsection (2), make a preliminary assessment of the importance of the transfer of personal information.

(4) The recipient will ensure that the importance of the transfer of personal information can be verified later.

(5) The Collector shall ensure that the recipient processes personal information for the purpose that led to the transmission of the relevant information only.

Export to a  
country that  
does not have  
adequate  
protection of personal information

32.-(1) Personal information will be exported to other countries other than those mentioned in article 31, if adequate protection is guaranteed in the country of the recipient and the information is exported for the purpose of allowing the processing allowed to be carried out by the collector.

(2) Adequacy of the level of protection provided and other countries will be evaluated based on-

(a) all circumstances surrounding the transfer of relevant personal information; (b) the type of personal information; (c) the purpose and duration of the proposed processing;

(d) the recipient's country; (e) relevant laws applicable in other countries; and (f) professional regulations and safety measures that are observed in the recipient's country.

(3) The Minister after consulting with the Commission and through regulations, will specify the type of processing and the circumstances in which the export of personal information abroad will not be allowed.

(4) Regardless of the provisions of sub-section (3), the transfer of personal information to a recipient abroad or in a country that does not have adequate protection can be carried out where- (a) the subject of the information has given consent to the proposed transfer ; (b) the transmission is necessary for the performance of a contract between the data subject and the collector or the performance of preliminary contractual steps taken in response to the request of the data subject; (c) the shipment is necessary for entering into or executing a contract entered into or to be entered into between the collector and another person in the interest of the subject of the information; (d) the transfer is necessary or legally required in the public interest, or for the initiation, conduct or defense of legal claims; (e) the transfer is necessary to protect the legitimate interests of the data subject; and (f) the transport is carried out in accordance with the law, aims to provide information to the public and provides an opportunity for consultation to the general public or to any person with a legitimate interest to submit their opinion in accordance with the conditions set out in the law.

(5) Without affecting the provisions of this Law, the Commission may authorize the export of personal information to the country of the recipient or any other country that has not established adequate protection of personal information in

its laws, if the collector assures the Commission that there is adequate protection of personal information, the freedom and fundamental rights of the data subject, and the enforcement of the rights of the data subject, and that such protection can be implemented through adequate legal, security and regulatory measures subject of the contract.

#### PART SIX RIGHTS OF DATA SUBJECTS

The right to access  
personal information

33.-(1) In accordance with the provisions of this Law, the subject of the information has the right to- (a) be informed by any collector if personal information is processed by that collector or another collector on behalf of that collector; (b) provided by the collector with details of- (i) personal information concerning him; (ii) the purpose of the processing; and (iii) recipients or groups of recipients to whom or who may be given such information; (c) where the automatic processing of personal information for the purpose of evaluating matters concerning him, has been used or may be used as the sole basis for decisions having a significant impact on him, to be informed by the collector about the basis of such decision.

(2) Regardless of the provisions of sub-section (1), the collector shall not be obliged to provide information to the subject of the information if the information- (a) is incorrect; (b) are involved in investigations in accordance with the law; or (c) are withheld by court order.

The right to restrict  
processing  
you can  
affect the  
subject of the  
information

34.-(1) Based on subsection (2), the subject of the information has the right to ask the collector through the procedure to be specified in the regulations, to stop or not to start the processing of any personal information

concerning him if the processing may cause serious harm to him or to another person.

(2) Subsection (1) shall not apply in circumstances excluded from the scope of the provisions of this Act.

The right to restrict the processing of personal information to be used for commercial advertising purposes

35.-(1) The subject of the information, in accordance with the procedure to be specified in the regulations, may ask the collector to stop processing his personal information for the purpose of commercial advertisements.

(2) Subject to subsection (1), the subject of the information may enter into a contract with the collector for the purpose of using or processing his personal information for financial gain.

(3) In this section "commercial advertisement" includes the presentation, in any form, of a commercial advertisement addressed to a particular person.

Rights in relation to automated decision making

36.-(1) The subject of information may, through the procedure specified in the regulation, ask the collector to ensure that any decision made by the collector or on behalf of the collector that has a significant impact on the subject of information, does not rely solely on automatic processing.

(2) Without prejudice to the provisions of subsection (1), where a decision with a significant impact on the data subject is based solely on automated processing- (a) the collector shall as soon as possible notify the data subject that the decision was taken based on automated processing; and

(b) the data subject may request the collector to reconsider the decision.

(3) This section shall not apply if the decision made- (a) is necessary for entering into or enforcing contracts between the data subject and the collector; (b) you are permitted by any law;

(c) is due to the consent given by the subject of the information.

Right to compensation

37.-(1) The subject of the information who suffers harm due to the violation of the provisions of this Law committed by the collector or processor shall have the right to be compensated by the collector or processor due to such harm.

(2) A data subject whose rights have been violated due to a breach of any of the provisions of this Act shall be entitled to compensation from the collector or processor if-

(a) the complainant is the affected data subject or the representative of the data subject if the subject is a child or person of unsound mind; (b) the rights of the data subject have been violated as a result of the breach; and (c) those effects are related to the processing of personal information contrary to the provisions of this Act.

(3) In the event that the Commission is satisfied with the request of the person responsible for the information-

(a) that he has suffered harm due to the violation of the provisions of this Law committed by the collector or processor in relation to any personal information, in circumstances that entitle him to compensation under this section; and (b) that there is a greater risk of further violations in relation to the relevant personal information in those circumstances, the Commission may order the modification, blocking, deletion or destruction of such information.

(4) The Commission, where it has issued an order under sub-section (3) and if it deems it reasonable, may order the collector or processor to inform third parties who have received personal information about the modification, restriction, deletion or destruction of such information.

(5) In deciding if it is right to require

notification under subsection (4), the Commission will consider the number of people who will have to be notified.

Modify, block,  
delete and  
destroy personal  
information

38.-(1) Where the Commission is satisfied at the request of the data subject that the personal information concerning that data subject is incorrect, the Commission may order the collector or processor to modify, block, delete or destroy such information.

(2) Subsection (1) shall apply even if the personal information is an accurate record received by the collector or processor from the data subject or another person.

(3) Where personal information is incorrect, the Commission may direct the collector or processor to correct such information as it deems appropriate.

(4) Where the personal information complained of has been modified, blocked, updated, deleted or destroyed under this article, the collector or processor shall be required to inform the third party who received the relevant personal information about the modification, blocking, updating, deletion or destruction of such information.

#### SECTION SEVEN COMPLAINT INVESTIGATION

Complaints  
against  
violations of the  
principles of  
protection of  
personal information

39.-(1) Anyone who discovers that the collector or processor has violated the principles of protection of personal information may submit a complaint to the Commission.

(2) Where the Commission is satisfied that there are fundamental reasons to investigate an issue under this Act, the Commission may initiate an investigation of a complaint related to that issue.

(3) Complaints submitted in this section will be investigated and concluded within ninety days from the date of receipt.

(4) The Commission may, considering the circumstances of the complaint, extend the time specified under subsection (3) for a period not exceeding ninety days.

Notice of

40. Before starting the investigation of the complaint below

investigation of this Law, the Commission, in the manner specified in the regulations, should give notice of investigation to the collector or processor involved in the complaint and the intention to conduct an investigation in that matter.

Confidentiality  
of investigation

41.-(1) Investigation of complaints under this Act shall be conducted confidentially.

(2) The Director General or any person working on his behalf to receive personal information related to any investigation under this Law or any other law, will have to meet any security requirements by taking the oath of secrecy that should be taken by people who carry out such duties.

Authority of  
Commission  
during investigation

42.-(1) When investigating a complaint, the Commission shall have the authority to-

(a) summon and require a person to attend before

Commission;

(b) receiving and accepting evidence and other information, on oath or by affidavit or otherwise; (c) enter any building owned by any collector or processor in order to satisfy himself if the building meets the security requirements; (d) questioning any person or leaving any device with personal information in any building entered in accordance with paragraph (c); and (e) examine or obtain copies of, or extracts from books, other documents found in the building he entered in accordance with paragraph (c) with any issue related to the investigation.

At

(2) During the investigation of a complaint under this section, the complainant and the collector or processor complained of may be given an opportunity to make representations to the Commission.

(3) Notwithstanding any other law, the Commission may examine personal information recorded in any form held by the collector or processor, and in doing so, the Commission shall not be prevented from obtaining any information.

(4) Any document or document produced under this section by the collector or processor or any other person, shall be returned by the Commission within ten working days after the application is submitted to the Commission by the collector or processor or such person, but nothing in subsection this will prevent the Commission from requiring that document or text to be submitted again in accordance with this article.

Blocking the Commission

43. A person who, in relation to the exercise of the authority granted under this Act- (a) will prevent or obstruct the Commission in the exercise of its authority; (b) fails to provide assistance or information requested by the Commission; (c) refuses to allow the Commission, in the performance of its duties, to enter any premises or leave with any document or device containing personal information; or

(d) gives the Commission any information that is false or misleading, he commits an offense and if he is convicted he will be liable to pay a fine of not less than one hundred thousand shillings and not more than five million shillings or imprisonment not exceeding two years or both.

Using the help of another person or authority

44.-(1) For the purpose of gathering information or for any investigation under this Act, the Commission may collaborate or use any other person or authority as it deems appropriate to assist the Commission in the implementation of its duties.

(2) A person or other authority that will be involved or used by the Commission in accordance with subsection (1), will have the same authority as the authority that the Commission has in exercising the investigation authority in accordance with this Law.

Notice of  
enforcement

45.-(1) Where the Commission is satisfied that a person has failed to comply with any provision of this Act, the Commission may issue an enforcement notice to that person requiring him to take steps to rectify the deficiencies within the period specified in the notice.

(2) An enforcement notice to be issued under subsection (1)-

- (a) specify the section of this Act that has been violated;
- (b) will specify the measures that should be taken to deal with or eliminate the problem in question; (c) shall specify the period in which the relevant measures shall be implemented which shall not be less than twenty one days; and (d) shall state the right of appeal.

Penalty  
notice

46.-(1) Where the Commission is satisfied that a person has failed or fails to comply with the enforcement notice issued under section 45, the Commission may issue a penalty notice requiring the person to pay to the Commission a fine of the amount specified in the notice.

(2) In determining whether it may issue a penalty notice to a person and determining the amount of the penalty, the Commission shall, as far as it deems necessary, consider-

- (a) the nature and severity of the violation, and the duration of the violation;
- (b) if the violation is committed with malicious intent or negligence;
- (c) any action taken by the collector or processor to reduce the harm suffered by the parties of the information, including technical and administrative measures (d) by the collector or processor;
- (e) the level of cooperation he showed to

Commission with the aim of correcting violations and reducing the negative effects of violations that may arise; (f) the type of personal information affected by the breach; 26

(g) the manner in which the Commission became aware of the breach, including if the collector or processor informed the Commission; (h) the extent to which the collector or processor complied with previously issued enforcement notices and penalty notices; (i) compliance with ethical principles or registration criteria and conditions;

(j) if the punishment is effective; and (k) any other factor that can be used to increase or decrease the penalty, including the financial benefits he has gained or the losses he has caused, directly or otherwise, due to the violation.

Administrative fines

47. The maximum penalty that can be issued by the Commission in a penalty notice in relation to the violation of the provisions of this Act, is one hundred million shillings.

Decision references

48.-(1) The Commission, after being requested or at its own discretion, may make a reference to its decision and instructions given in accordance with the provisions of this Section.

(2) After making a reference in accordance with subsection (1) the Commission may reverse, change or suspend its decision or instructions it previously issued.

Right of appeal

49. A person who is not satisfied with any administrative action taken by the Commission, including the instructions given in the enforcement notice or the penalty given in the penalty notice, may appeal to the High Court.

Payment of compensation

50.-(1) In accordance with the provisions of section 37, the Commission may, in addition to other penalties provided under this Law, order the collector or processor who caused harm to the subject of the information due to the violation of the provisions of this Law to pay compensation to the subject of the information .

(2) Based on sub-section (1)- (a) the collector involved in the processing of personal information shall be responsible for the consequences resulting from such processing; and (b) the processor responsible for the processing of personal information shall be responsible for the consequences resulting from such processing if- (i) he has not performed the duties specifically directed to the processors under this Law; or (ii) has acted contrary to the lawful instructions of the collector.

(3) The collector or processor shall not be liable in the manner specified in subsection (2) if the collector or processor proves that he was not involved in any way in the event that caused harm.

(4) In this section, "harm" includes pecuniary loss and non-pecuniary harm.

#### PART EIGHT FINANCIAL TERMS

Sources of funds  
for the Commission

51. The funds of the Commission shall include- (a) an amount of money which may be appropriated by Parliament;  
(b) money to be obtained from services, advice or other payments; (c) funds derived from donations, gifts or grants; (d) loans; and (e) other income to be derived from the performance of the Commission's activities under this Act.

Financial  
management

52. The funds of the Commission will be managed by the Board in accordance with the financial laws and will be used to cover expenses related to the implementation of the duties of the Commission under this Law

Estimates of  
income and  
expenditure  
and financial  
control

53.-(1) The Director General shall, in a period not less than three months before the end of each financial year, prepare and submit to the Board for approval, a budget that includes the estimated income and expenditure for the next financial year.

(2) In accordance with the provisions of subsection (1), the Commission will submit a copy of the budget to the Minister for approval.

(3) The Minister may ask the Commission to make adjustments in the budget if in his opinion the budget does not represent an accurate and reasonable estimate of income and expenditure.

Use of money

54. Expenditure shall not be made from the funds of the Commission unless such expenditure is part of the expenditure approved by the Board under section 53(1) in relation to the financial year in which the expenditure was approved.

Additional  
estimates

55.-(1) The Board may, at any time before the end of the relevant financial year, prepare and submit to the Minister for approval any additional estimate of the relevant year's estimate.

(2) Without prejudice to sub-section (1), the Director General may, where an emergency has arisen in the implementation of the Commission's duties, make use that has not been approved by the Board where the Director General will have to, within the next three months, request the approval of the Board for the use that.

Accounts  
and audits

56.-(1) The Commission shall keep books of accounts and keep accurate records of its activities in accordance with accounting standards.

(2) The Commission shall, within six months after the end of each financial year, prepare a report on the implementation of its duties in that financial year, and one copy of the report together with a copy of the audited accounts shall be submitted by the Comptroller and Auditor General of Government Accounts.

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(3) The accounts of the Commission shall be audited by the Comptroller and Auditor General of Government Accounts or another person registered as an auditor under the Act on the Registration of Auditors and Accountants appointed by the Comptroller and Auditor General of Government Accounts for that purpose.

Annual reports and implementation agreements

57.-(1) Within two months after receiving the audited accounts and the auditor's report, the Director General shall submit to the Minister the relevant annual report including-

- (a) a copy of the audited accounts together with the auditor's report on the account those;
- (b) information on the implementation of important goals and any other information related to the implementation of those goals;
- (c) information on the operation of the Commission in the relevant financial year; and
- (d) such other information as the Minister may require.

(2) The Minister shall submit to Parliament a copy of the Commission's annual report within two months or at the next meeting of Parliament.

#### PART NINE OTHER TERMS

Circumstances removed a in the scope of This law

58.-(1) Nothing in this article shall exempt the collector or processor from the obligation to comply with the legal principles in the collection and processing of personal information and to take the necessary steps to ensure the protection and security of the personal information they have.

(2) Without affecting subsection (1), the processing of personal information may be excluded from the scope of the provisions of this Law if the processing-

- (a) is carried out by the subject of the information in his personal activities;
- (b) is made in accordance with the provisions of any law or court order;
- (c) it is done for the purpose of protection and security of the Nation and public interest;

- (d) is conducted for the purpose of preventing or detecting crime; (e) is carried out with the aim of identifying or preventing tax evasion; (f) takes place in the audit of the embezzlement of public funds; or
- (g) is for the purpose of search for appointment in a public service position.

(3) The Minister may include other circumstances that may be removed from the scope of the provisions of this Act and other provisions regarding the implementation of this article.

Conservation order

59.-(1) The Commission may request a court order for the immediate storage of any personal information, including personal information passing through the system, if there are fundamental reasons that the information is at risk of being lost or changed.

(2) If the court is satisfied, under subsection (1), that an order can be issued under this subsection, it will issue a ninety day preservation order which will be implemented

(3) The court may, on the application of the Commission, extend the period specified in subsection (2) for such period as the court deems appropriate.

Offenses of unlawful disclosure of personal information

60.-(1) A collector who, without good reason, discloses personal information in any way that is inconsistent with the purpose for which the information was collected commits an offence.

(2) A processor who, without reasonable cause, discloses personal information processed by the processor without the prior consent of the collector commits an offence.

(3) Subject to subsection (4), a person who- (a) obtains personal information, or obtains any information that includes personal information, without the consent of the collector or processor that stores the information; or

(b) discloses personal information to another person, commits an offence.

(4) A person who sells personal information obtained in violation of subsection (1) commits an offence.

(5) For the purposes of subsection (4), an advertisement showing that personal information is being sold or can be sold will be considered an offer to sell personal information.

(6) A person found to have committed an offense under this article shall be liable- (a) if he is an individual, to pay a fine of not less than one hundred thousand shillings and not more than twenty million shillings or imprisonment for a period not exceeding ten years or both; and (b) if it is a company or organization, to pay a fine of not less than one million shillings and not more than five billion shillings.

Misdemeanors of illegal destruction, deletion, concealment or alteration of personal information

61. A person who destroys, searches, misrepresents, hides or changes personal information against the law commits an offense and when convicted will be liable to pay a fine of not less than one hundred thousand shillings and not more than ten million shillings or imprisonment not exceeding five years or both.

Misdemeanors committed by a company or organization

62. Where an offense under this Act has been committed by a company or organization, the company or organization and every officer of the organization who knowingly and intentionally authorizes or permits the violation shall be responsible for the offense.

General punishment

63.-(1) Any person who violates the provisions of this Act, commits an offense and where there is no specific penalty specified, when convicted, he will be liable to pay a fine of not less than one hundred thousand shillings and not more than five million shillings or imprisonment not exceeding five years or both.

(2) After a person has been convicted of any offense under this Act, the court may order

Seizure of his equipment containing personal information involved in the commission of an offence.

Principles

64.-(1) The Minister may make regulations for the implementation of the provisions of this Act.

(2) Regardless of the generality of sub-section (1), regulations to be made under this section may specify- (a) circumstances that will be excluded from the scope of the provisions of this Act; (b) registration procedures under this Act; (c) duties of the information protection officer in relation to the protection of personal information; (d) duties of the collector's representative when performing collection and processing tasks on behalf of the collector; (e) procedures for the enforcement of rights under the Law

this;

(f) procedures for submitting complaints under this Act; (g) conditions for the processing of personal information

sensitive;

(h) appropriate standards relating to information security to be observed by collectors; (i) various fees related to the implementation of the provisions of this Law; (j) procedures for storage and disposal of personal information stored by collectors; (k) the type of processing and the circumstances in which the export of personal information abroad will not be permitted; (l) any matter which is necessary or appropriate for the effective implementation of the provisions of this Act.

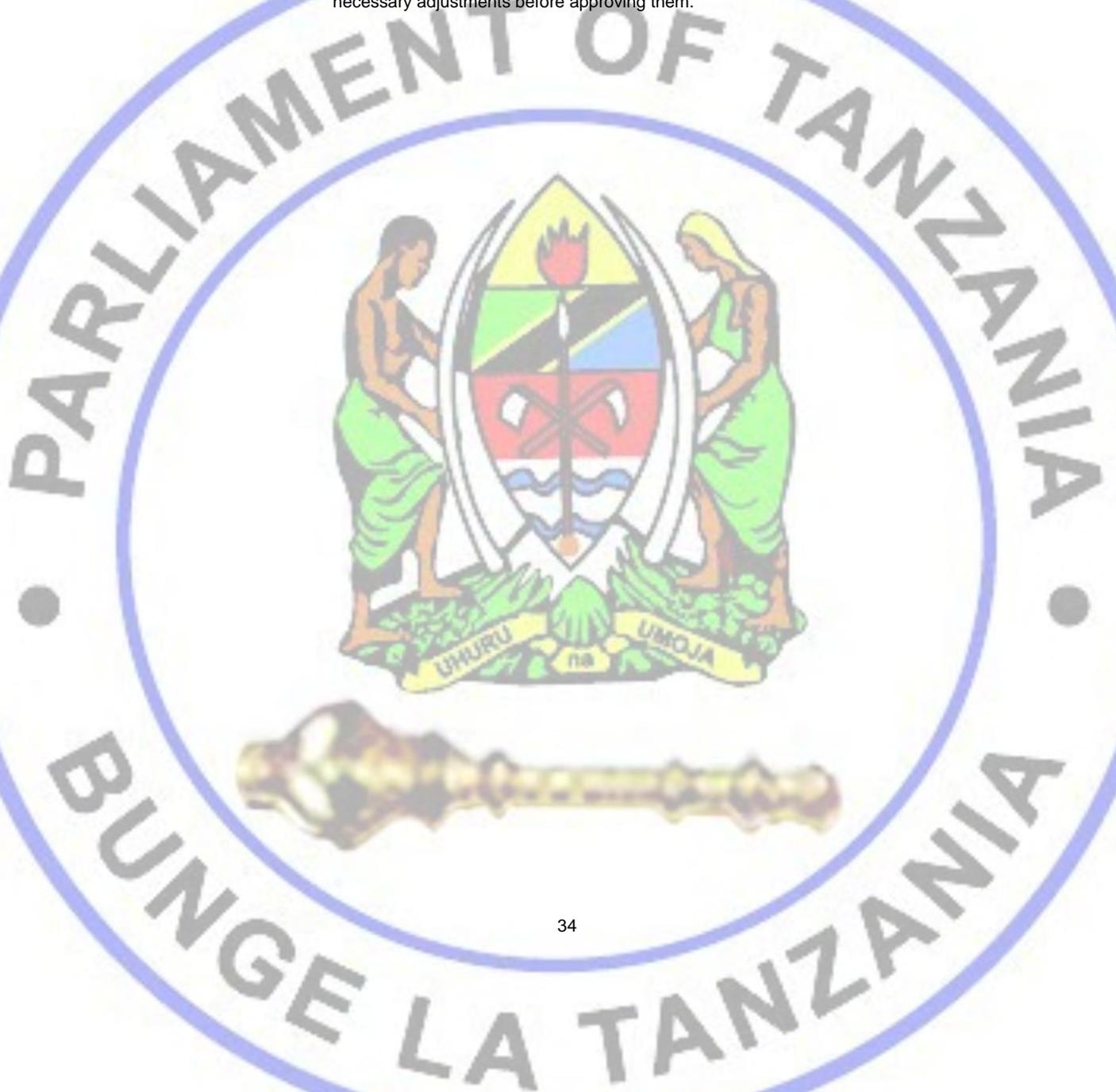
Code of ethics for the protection of personal information

65.-(1) Every collector should develop ethical principles or policies for the protection of personal information that will specify the values and taboos that should be observed during the collection or processing of information

personally.

(2) Regulations or policies under subsection (1) shall be submitted to the Commission for review and approval.

(3) During the review of ethics rules or policies, the Commission will satisfy itself, among other things, if the submitted drafts of ethics rules or policies comply with the provisions of this Law and of the relevant sector and where it deems appropriate, it may seek the opinions of the parties information or their representatives and consult with the relevant collector for the purpose of making necessary adjustments before approving them.



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 TABLE
 

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(Made under section 8(6))

## BOARD PROCEDURES

Time of delegates take place	<p>1.-(1) The term of office of the members of the Board will be as follows: (a) Chairman and Vice Chairman - four years; and (b) other members - three years.</p> <p>(2) Each member may be reappointed for one term more and after the end of that term, he will not be eligible for re-appointment.</p> <p>(3) Any member may resign at any time by giving written notice to the appointing authority and shall cease to be a member from the date specified in the notice or if there is no date specified, from the date of receipt of the notice by the appointing authority.</p>
Limitation of delegates	<p>2. A member of the Board may at any time cease to be a member due to the following reasons:</p> <p>(a) lose the ability to perform his duties due to and physical or mental illness;</p> <p>(b) misbehavior or misconduct in a manner which will or is likely to bring disrepute to Board;</p> <p>(c) not attending three consecutive meetings of the Board without giving notice; or (d) resign; and (e) death.</p>
Not attending Board meetings	<p>3.-(1) If any member does not attend three consecutive meetings of the Board without notice, the Board may advise the selection authority on the matter and the selection authority may cancel the selection of that member and appoint another member instead.</p> <p>(2) If any member due to illness, infirmity or absence in the United Republic is unable to attend any meeting of the Board, the Minister may appoint a temporary member in his place and the temporary member shall cease to hold that position after the respective member returns to his position .</p>
The activities of the Board are not invalidated due to defects	<p>4. The activities of the Board will not be invalid because of any defect in the selection of any member or for the criterion that any member at the time of selection was not qualified or did not deserve to be appointed.</p>
Board Meetings	<p>5.-(1) The Board shall meet every quarter at times and places it deems appropriate for its activities.</p> <p>(2) The Chairman or in his absence, the Vice Chairman, may call a special session or an emergency session of the Board.</p> <p>(3) The regular meeting of the Board will be called by the Chairman and information specifying the place, date and time of the meeting will be given to</p>

members not less than ten days before the date of the meeting and if the Chairman is unable to convene the meeting due to illness or any other reason or is absent from the United Republic, the Vice Chairman may convene the meeting.

(4) The Board may continue its activities regardless of the fact that any post is vacant.

Conflict of interest

6.-(1) Where a member of the Board at any time has a conflict of interest in relation to-

(a) any matter before the Board for discussion or decision; (b) any matter which the Board may expect may come before it for discussion or decision, the member shall immediately disclose the conflict of interest to other members of the Board and cease to participate in, or continue to be part of, discussing or deciding the matter.

(2) If the Board learns that a member has a conflict of interest in relation to any matter before the Board, it will instruct the member not to participate or not to continue participating in discussing or deciding the matter.

(3) A Board member will be deemed to have violated the provisions of subparagraph (1) if- (a) he fails without reasonable grounds to disclose his interests as required; or (b) knowingly makes a false or misleading statement which affects the decision,

that person will be committing an offense and will have to resign from his post.

Professional invitation

7. The Board may invite any person who is not a member to participate in the discussions of the Board and provide expertise as the Board may require, but that person shall not have the right to vote.

Quorum

8. Quorum in any meeting of the Board shall be more than half of the members of the Board.

Summary of sessions

9. Minutes of each Board meeting will be kept and verified and the Board in the next session.

Board Decision

10. The decision of the Board in any matter will be by the majority of the votes of the members present and where the votes are equal, the Chairman will have a veto.

Board to run its procedures

11. In accordance with the provisions of this Law, the Board shall have the authority to manage its procedures in relation to meetings and the conduct of its activities.

Payment of  
delegates

12. Board members will be paid fees and allowances as  
to be determined by the relevant authorities.

Passed by Parliament today on November 1, 2022.

NENELWA J. MWIHAMBI

*Secretary of Parliament*

