



**ESWATINI
COMMUNICATIONS
COMMISSION**



**ESWATINI
DATA PROTECTION
AUTHORITY**

**[ESWATINI DATA PROTECTION AUTHORITY (EDPA)
– DATA PROTECTION REGISTRATION GUIDE, 2024]**

I. Why is registration required?

I.1 Section 5 of the Act enjoins the Commission to maintain a register of all Data Controllers and Data Processors. Pursuant to this provision, the Commission shall establish a data protection register and register every data controller and data processor who on ordinary business are collecting or processing personal information. By registering, entities are fulfilling the Notification Requirement under Section 46 (2) (a-f), this is a process by which the Data Controllers and Data Processors inform the Commission of the following:

- I. Who they are.
- II. The type(s) of personal data it holds.
- III. The nature of the processing of personal information they engage in.
- IV. The purpose of the processing.
- V. A description of the categories of data subjects.
- VI. Who do they share personal information with?
- VII. Whether or not they transfer personal information outside of Eswatini.
- VIII. How they ensure the protection of the personal information they collect or process; and
- IX. Who their contact person is for data protection issues (Data Protection Officer)?

I.2 In terms of Section 46(8) of the Act, **“A data Controller shall process personal information only upon notification to the Commission”**.

2. Who is required to register?

2.1 All Data Controllers and Data Processors shall register unless exempted by the EDPA.

2.2 No Data Controller or processor shall act as a Data Controller or Data Processor unless registered with the EDPA.

2.3 Data Controllers or Data Processors established or resident in Eswatini and outside Eswatini that process the Personal Data of individuals located in Eswatini shall register with the EDPA.

3. Are you a Data Controller?

- 3.1 The Act defines a Data Controller as a public or private body which or any other person designated by law, who alone or together with others, determines the purpose of and means for processing personal information, regardless of whether or not such data is processed by that party or by a data processor on its behalf, where the purpose and means of processing are determined by law.
- 3.2 Examples of data controllers: Telecommunication operators, banks and microfinance institutions, health service providers, insurance companies, educational institutions, retailers, betting companies, government agencies, independent commissions, and regulators, charities and religious organisations, and international organisations among others.
- 3.3 The following checklists set out indicators as to whether you are a Data Controller. The more boxes you tick, the more likely you fall within this category.

Checklist: Are you a Data Controller?

- You decide to collect or process the Personal Data.
- You decide what the purpose or outcome of the Processing is to be.
- You decide what Personal Data should be collected.
- You decide which individuals to collect Personal Data about.
- You obtain a commercial gain or other benefit from the Processing, except for any payment for services from another Controller.
- You are Processing the Personal Data as a result of a contract between you and the Data Subject.
- The Data Subjects are your employees.
- You make decisions about the individuals concerned as part of or as a result of the Processing.
- You exercise professional judgment in the Processing of the Personal Data.
- You have a direct relationship with the Data Subjects.
- You have complete autonomy as to how the Personal Data is processed.

- You have appointed the processors to process the Personal Data on your behalf.

4. Are you a Data Processor?

- 4.1 The Act defines a Data Processor as a natural or legal person, or public body which processes personal information for and on behalf of a data Controller and under the instructions of a Data Controller and excludes persons who are authorised to process data under the direct authority of a Data Controller.
- 4.2 The Data Processor is usually a third party external to the Data Controller and not the Data Controller's employee. This processing is done under the direct instructions of the Data Controller.
- 4.3 There must be a contractual relationship between the Data Processor and the Data Controller that clearly defines the relationship.
- 4.4 Examples of Data Processors: direct marketing service providers, cloud computing, or document unitization service providers among others.
- 4.5 The following checklists set out indicators as to whether you are a Data Processor. The more boxes you tick, the more likely you fall within this category.

Checklist: Are you a Data Processor?

- You have a contract to process Personal Data on behalf of a Data Controller.
- You are following instructions from the Data Controller regarding the Processing of Personal Data.
- You do not decide to collect Personal Data from Data Subjects.
- You do not decide what categories of Personal Data should be collected from Data Subjects.
- You do not decide the lawful basis for the processing of the personal data.
- You do not decide what purpose or purposes the personal data will be used for.
- You do not decide whether to disclose the personal data or to whom.
- You do not decide how long to retain the personal data.

- You may make some decisions on how data is processed but implement these decisions under a contract with the Data Controller.

5. Can you be both a Data Controller and a Processor?

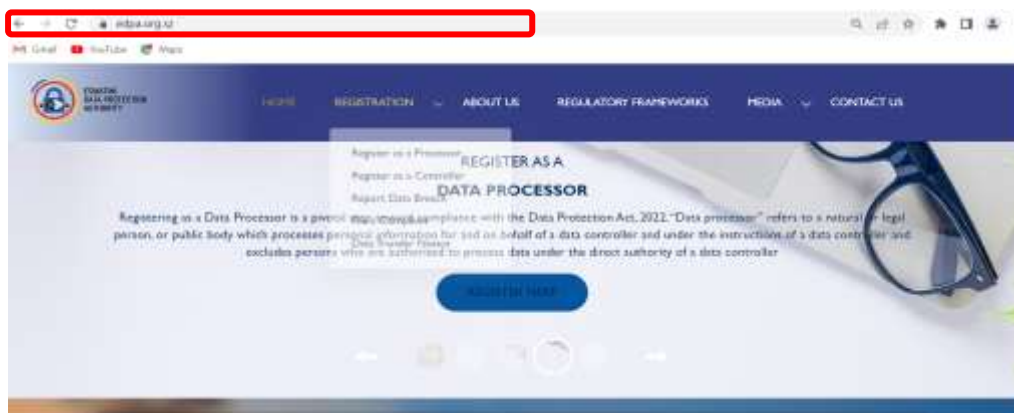
5.1 The answer is **YES**. There are situations where an entity can be both a Data Controller and a Data Processor. For example, suppose you are a Data Processor that provides services to other Data Controllers. In that case, you will likely be a Data Controller for some personal data (for example, in relation to your own employees' data) and a processor for the personal data that you collect or process on behalf of your customer. Where an Entity is both a Data Controller and Data Processor, it shall register only as a Data Controller and will be required to pay only registration fees and annual renewal fees as a Data Controller.

6. How to register

6.1 Visit the portal www.edpa.org.sz for the online registration forms for Data Controllers and Data Processors.

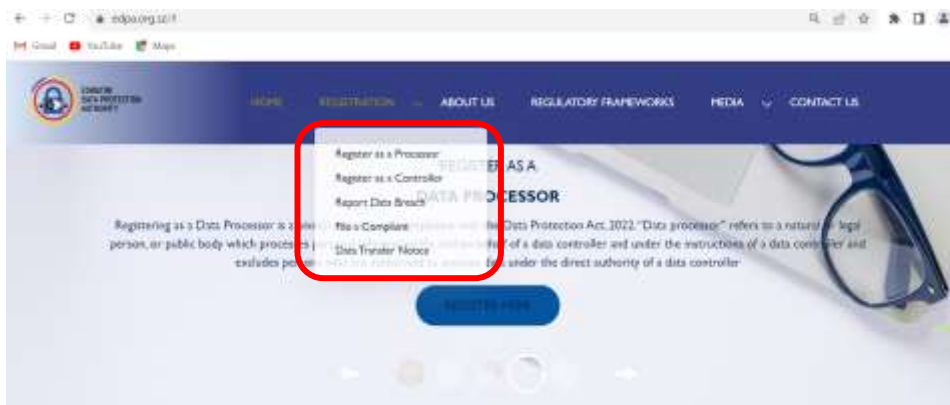
7. Consult a step-by-step instruction given below.

7.1 Data Controllers or Data Processors are required to visit the www.edpa.org.sz portal to access the online registration forms.

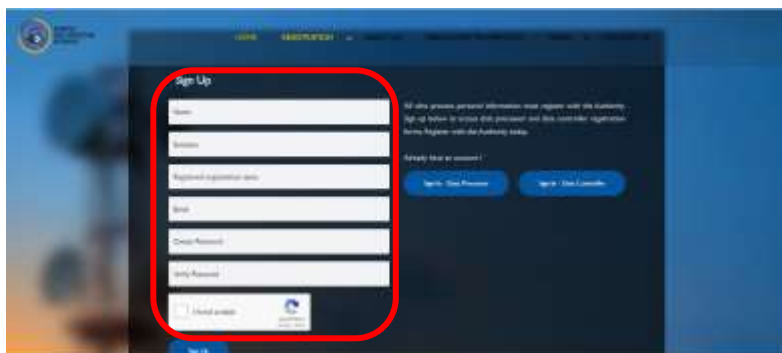


7.2 Data Controllers or Data Processors will have to click on the registration tab, then

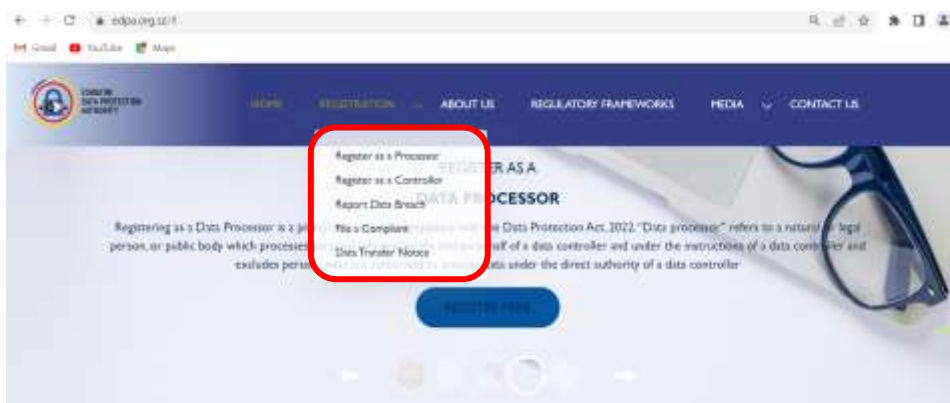
select **'Register as a Controller'** or **'Register as a Processor'**, depending on which entity the organisation falls within.



7.3 Before a user can register as a Data Controller or Data Processor, a user will be required to sign up to create an account. The user will be required to capture the below details.



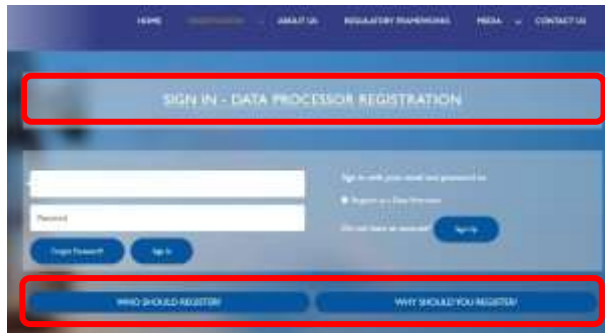
7.4 The user will receive the verification email through their valid email address, after which the user will be required to select the form on the registration tab where they are required to **'Register as a Controller'** or **'Register as Processor'**.



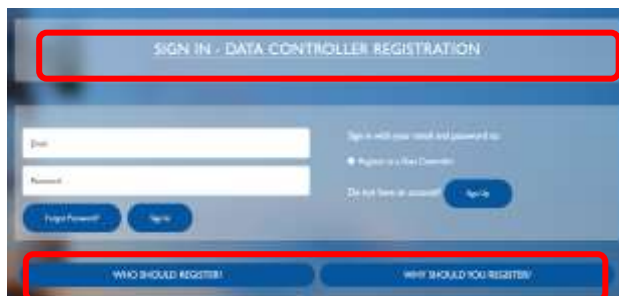
7.5 After the user selects **'Register as a Processor'** or **'Register as a Controller'**, they will

be required to sign in and access the registration form. The sign-in pages have an explanation of who should register and why you should register.

- Sign in page for the Data Processor registration form



- Sign in page for the Data Controller registration form



7.6 The user will be required to fill in the registration forms per the step-by-step guide below.

8. How to fill in the Data Protection registration form

8.1 Step 1: Identify if you are a 'Data controller' or 'data processor' (or both)

8.1.1 If you are both a Data Controller and a Data Processor, you will be required to register only as a Data Controller.

8.2 Step 2: Provide organisational details.

8.2.1 Provide details of your Entity which includes the legal name of the organisation, registered address, email address, phone number, organisation type, and registration category.

8.2.2 Select the organisation type, if the organisation type is not within the list, please select other and specify the organisation type.

8.2.3 Select the registration category according to the organisation's annual

turnover once the organisation selects the category the system will automatically display the organisation's registration fee and annual renewal fee.

- 8.2.4 Provide legal representation details if applicable, this could include legal department representatives.
- 8.2.5 Provide contact details of the appointed data protection Office. This could be a Data Protection Officer that acts for many Entities, including a group of companies; or a Data Protection Officer that acts only for your Entity.
- 8.2.6 If you have not appointed a Data Protection Officer, you can provide a contact person of an individual the Commission can liaise with. Provide a note if a Data Protection Officer has not been appointed.
- 8.2.7 Provide reporting line details for the designated Data Protection Officer. This can include the Chief Risk Officer and the CEO among others. Please ensure that the Data Protection Officer is independent and there is no conflict of interest in them performing their duties.

8.3 Step 3: identify the classes and categories of personal data processed- (data processing activities).

- 8.3.1 For 'Description of processing activities' you should provide an overview of your organization's processing activities
- 8.3.2 For 'description of Personal Data,' you should select from the list provided, if it has not been specified on the list, please select other and specify on the box that will be provided. You should provide only the kinds/ types of Personal Data you process. For example, if an organization collects names and identification numbers of clients, you should write only the classes of information processed, which are "names" and "ID numbers." Do not write the actual names and telephone numbers of all your clients.
- 8.3.3 For the 'category of Data Subjects,' you should select from the list provided, if it has not been specified on the list, please select other and

specify on the box that will be provided. You should select the categories of individuals which relate to the list of data that you have stated. For example, employees, customers, patients, shareholders, directors, suppliers, students, and participants are categories of individuals.

8.3.4 For the 'purpose of Processing,' you should select the reasons for the Processing. For example, payroll, invoicing, patient care, knowing your client, due diligence, etc.

8.3.5 For 'category of recipients to whom personal data is disclosed' you should select from the list provided, if it has not been specified on the list, please select other and specify on the box that will be provided.

8.3.6 For 'ground for processing' you should select the ground for processing personal data.

8.4 Step 4: list the sensitive personal data processed.

8.4.1 Please tick the box applicable or not applicable.

8.4.2 If applicable, select the type of sensitive personal data you process and state the purpose for which you are processing the relevant sensitive Personal Data.

8.4.3 Select the grounds for processing sensitive personal data.

8.4.4 If not applicable, please proceed to the next step.

8.5 Step 5: Processing authorizations or Data Processor involvement

8.5.1 For Data controller

- Please tick the box applicable or not applicable
- If applicable a Data controller is required to list all data processors.
- Select if they have written contracts with their data processors.

8.5.2 For Data Processors

- a Data Processor is required to list all data controllers, they process personal data

for.

- Select if they have written contracts with their data Controllers. If you have a written contract with one Data Processor and not the other Data Processors, please add the note next to the names of the Data Controller.

8.6 Step 6: Transfer of personal data outside Eswatini

- 8.6.1 If you transfer Personal Data outside Eswatini, list all the countries where your Entity transfers or will transfer Personal Data. For example, if your institution has a cloud service outside the country, mention where the cloud service is located, and if your institution has a supplier outside the country that requires personal data, list that supplier. (Also fill in the Transfer Data Form for EDPA authorisation)
- 8.6.2 If you store personal data outside of Eswatini, select yes or no, and specify if it is within SADC or Outside SADC.
- 8.6.3 If not applicable, please proceed to the next step.

8.7 Step 7: Measures for the protection of personal data

- 8.7.1 You should list the risk(s) to Personal Data, for example, unauthorized access, unlawful disclosure, and theft amongst others.
- 8.7.2 You should also describe the safeguards and security measures in place to protect Personal Data. For example, physical and logical access control, visitors' logbooks, privacy notices, information security policy (firewall, antivirus amongst others), data encryption, data strong password security training for the staff, and email policies amongst others.

8.8 Step 8: Additional documents to be submitted.

- 8.8.1 You should provide your company's annual turnover.
- 8.8.2 Once all the information has been entered, please review the application, and correct all errors or inaccuracies.

8.8.3 All Data Controllers and Data Processors are required to declare that all information that has been provided on the registration forms is accurate and complete.

8.8.4 There is no additional documentation required by EDPA.

8.9 Step 9: Payment of Registration Fee

8.9.1 Upon completion of the registration process an invoice will be issued for payment of the registration fees.

8.9.2 Payment shall be made by:

- i. EFT

8.10 Step 10: Registration Certificate

8.10.1 The EDPA shall issue a registration certificate to an applicant for registration as a Data Controller or a Data Processor who meets the requirements for registration within fourteen days (14) days from the date of receipt of payment.

8.10.2 The registration certificate will be valid for one (1) year, renewable annually unless revoked or varied by the Commission.

9. Contact us

9.1 For more information contact the EDPA through the below channels:

9.1.1 Email: dataprotection@esccom.org.sz

9.1.2 Contact details: +268 2406 7000/37/04