

## ALYIANT2YOU: Regulatory Brief

### DIFC DATA PROTECTION LAW

**Background:** The Dubai International Financial Centre (“DIFC”) Data Protection Law DIFC Law No.5 of 2020 (“**DP Law**”) and Data Protection Regulations thereunder came in to force on 1<sup>st</sup> July 2020. The DP Law repeals and replaces the earlier DIFC Data Protection Law DIFC Law No.1 of 2007 and the regulations thereunder. The purpose of the DP Law is to: (a) provide standards and controls for the ‘Processing’ and free movement of ‘Personal Data’ by a ‘Controller’ or ‘Processor’ and (b) protect the fundamental rights of ‘Data Subjects’, including how such rights apply to the protection of Personal Data in emerging technologies.

**Where does the DP Law apply:** It applies in the jurisdiction of the DIFC to the Processing of Personal Data: (a) by automated means; and (b) other than by automated means where the Personal Data forms part of a filing system or is intended to form part of a filing system.

**Who does the DP Law apply to:** It applies to: (a) the Processing of Personal Data by a Controller or Processor incorporated in the DIFC, regardless of whether the Processing takes place in the DIFC or not and (b) a Controller or Processor, regardless of its place of incorporation, that ‘Processes’ Personal Data in the DIFC as part of stable arrangements, other than on an occasional basis. The DP Law does not apply to the Processing of Personal Data by natural persons in the course of a purely personal or household activity that has no connection with a commercial purpose.

**What does the DP Law Cover:** The DP Law encompasses rights and obligations relating to the Processing of Personal Data, including with respect to the Processing of ‘Special Categories of Personal Data’ and ‘High Risk Processing Activities’. Amongst its other provisions, the DP Law contains provisions for:

- a Controller or Processor to establish a program to demonstrate compliance with the DP Law;
- a Controller or Processor that collects or Processes Personal Data to implement and maintain a written Data Protection Policy;
- a Controller to maintain a written record of Processing activities under its responsibility;
- a Processor to maintain a written record of all categories of Processing activities carried out on behalf of a Controller;
- the appointment of a Data Protection Officer (‘DPO’);
- a DPO Controller assessment at least once a year with respect to the Controller’s Processing activities;
- data protection impact assessments prior to a Controller undertaking High Risk Processing Activities;
- Joint Controllers;
- Processors and Sub-processors;
- the transfer of Personal Data out of the DIFC where there is an adequate level of protection;
- the transfer of Personal Data out of the DIFC in the absence of an adequate level of protection;
- data sharing;
- provisions for the providing of information with respect to Personal Data;
- rights of Data Subjects;
- Personal Data Breaches;
- remedies, liability and sanctions for contravention of the DP Law, including the imposition of fines.

**How we can help you:** We can assist with:

- carrying out an assessment as to the applicability and extent of the applicability of the DP Law to your organisation; and
- based on your requirements, preparing a written Data Protection Policy along with Processes and Procedures covering the requirements of the DP Law and the regulations thereunder.

For further details, please contact us at [aly@alyiantconsultancy.com](mailto:aly@alyiantconsultancy.com)

**Aly Shah**  
**Managing Director**  
**Alyiant Consultancy Limited**  
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