SmartSuite

Framework / Privacy / Global Privacy Regulations

Data Protection Act, No. 24 of 2019 (Kenya)

Kenya's Data Protection Act, 2019 regulates personal data processing, requires controller and processor registration with the ODPC and sets a 72-hour breach notice.



What it is

The Data Protection Act, 2019 (Act No. 24 of 2019, Cap. 411C) is Kenya's data protection statute. It regulates the processing of personal data by any data controller or data processor established or ordinarily resident in Kenya, and by those outside Kenya who process the personal data of data subjects located in Kenya (section 4). Parliament passed it, the President assented on November 8, 2019, the Kenya Gazette published it on November 15, 2019, and it commenced on November 25, 2019.

The Act gives effect to Article 31(c) and (d) of the Constitution of Kenya, which protect privacy. Section 3 sets five objects: to regulate processing, to guide it by the principles in section 25, to protect privacy, to create the legal and institutional mechanism for protection, and to give data subjects rights and remedies. Section 5 establishes the Office of the Data Protection Commissioner (ODPC), headed by the Data Commissioner, which registers controllers and processors, receives breach notices, investigates complaints and imposes penalties.

At a glance

PUBLISHER Parliament of Kenya	TYPE Regulation	VERSION Data Protection Act, No. 24 of 2019 (Cap. 411C), revised edition as at December 31, 2022
EFFECTIVE November 25, 2019	DOMAIN Privacy	FAMILY Global Privacy Regulations
REGION Kenya	ADOPTION MODEL Regulatory Compliance	IMPLEMENTATION COMPLEXITY High

Source: odpc.go.ke/data-protection-laws-kenya/

Why it matters

- **A registered, public list of data handlers** Section 18 requires registration with the Data Commissioner, and section 21 makes the register a public document. A certificate is valid for 24 months under regulation 9 of the Registration Regulations.
- **Eight principles that bind processors too** Section 25 applies to every controller and processor, including lawful, fair and transparent processing, purpose limitation, data minimization, accuracy and storage limitation.
- **A 72-hour breach clock** Section 43(1) requires notice to the Commissioner within 72 hours of becoming aware of a breach with a real risk of harm; a processor tells the controller within 48 hours where practicable.
- **Rights with deadlines** The General Regulations require a data access request to be met within seven days (regulation 9) and data portability within 30 days (regulation 11).

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How SmartSuite supports Kenya DPA 2019

Register Records for ODPC Registration

Hold each controller and processor entity with its section 19 particulars, certificate number, 24-month expiry and renewal date.

Personal Data Inventory

Record data categories, purposes, lawful bases under section 30, sensitive data flags and retention periods in Privacy Management.

Data Subject Request Tracking

Log access, rectification, erasure, objection and portability requests with the seven-day and 30-day deadlines from the General Regulations.

Data Protection Impact Assessments

Run section 31 assessments with the regulation 49 triggers, approvals and the outcome of any consultation with the Commissioner.

Breach Register and 72-Hour Clock

Record each breach with discovery time, risk-of-harm assessment, ODPC notice and data subject communication under section 43.

Processor and Transfer Oversight

Track section 42 processor contracts, safeguards for section 48 and 49 transfers and monitoring of each processor.

Common framework mappings

APEC PF | CCPA/CPRA | GDPR | ISO 27701 | NIST Privacy Framework v1.0 | OECD Privacy Guidelines | POPIA | UK DPA 2018

Official resources

Kenya Data Protection Act, 2019

The legal text of the Kenya Data Protection Act defining data privacy obligations for organizations.

odpc.go.ke/data-protection-laws-kenya

ODPC Guidelines on Compliance

Provides regulatory guidance on implementing data protection controls under the Kenya Data Protection Act.

odpc.go.ke/guidelines

Data Protection Impact Assessment Guidelines

Describes requirements and procedures for conducting data protection impact assessments.

edpb.europa.eu/our-work-tools/general-guidance/gdpr-guidelines-recommendations-best-practices_en

Data Subject Rights FAQ

Describes the rights of data subjects and the obligations of data controllers.

odpc.go.ke/faqs

Frequently asked questions

Who does the Kenya Data Protection Act apply to?

Section 4 applies the Act to controllers and processors that are established or ordinarily resident in Kenya and process personal data there, and to those not established in Kenya that process the personal data of data subjects located in Kenya. It covers automated processing and non-automated processing of a filing system, in the public and private sectors.

Do all controllers and processors have to register with the ODPC?

Section 18 says no one may act as a controller or processor unless registered, subject to thresholds. Regulation 13 of the Registration Regulations exempts entities with annual turnover or revenue below KES 5 million and fewer than ten employees, but the Third Schedule requires registration for purposes such as financial services, health, education, telecommunications, direct marketing and processing genetic data.

How quickly must a data breach be reported in Kenya?

Section 43(1) requires a controller to notify the Data Commissioner within 72 hours of becoming aware of a breach that gives a real risk of harm, with reasons if it is late (section 43(2)). A processor must tell the controller without delay and, where practicable, within 48 hours (section 43(3)). Affected data subjects are told in writing within a reasonably practical period unless encryption or similar safeguards were applied.

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What are the penalties under the Kenya Data Protection Act?

The Commissioner can issue a penalty notice of up to KES 5 million or, for an undertaking, 1 percent of the preceding year's turnover, whichever is lower (sections 62 and 63). Offences such as unlawful disclosure (section 72) and the general penalty in section 73 carry a fine of up to KES 3 million, imprisonment of up to ten years, or both. A data subject can also claim compensation (section 65).

Does the Act require a data protection officer or an impact assessment?

Section 24 allows a controller or processor to designate a data protection officer, notably where core activities involve regular and systematic monitoring or sensitive data; contact details must be published. Section 31 requires a data protection impact assessment before processing likely to create high risk, and regulation 49 of the General Regulations lists triggers such as biometric data, children's data and large-scale processing.

License included / downloadable: Yes The Act is published free by the Office of the Data Protection Commissioner and on Kenya Law, where legislation carries no copyright; the platform links to the official text.

Full framework page and mappings: smartsuite.com/frameworks/kenya-data-protection-act-2019

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