Saint Lucia Data Protection Act

Operative provisions: sections 32–43

This convenience PDF reproduces the currently commenced controller-obligation provisions from the Revised Laws of Saint Lucia (2023), published by the Attorney General's Chambers. It is not a substitute for the official online revised law.

Official table of contents: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act

Commencement source: S.I. No. 4 of 2023 (31 January 2023).

32. Data Protection Principles

The data controller shall comply with the Data Protection Principles set out in Schedule 2, in relation to all personal data processed by the data controller.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-32

33. Collection of personal data

(1) Subject to Part 6, a data controller shall not collect personal data unless —

(a) the data is collected for a lawful purpose connected with a function or activity of the data controller; and

(b) the collection of the data is necessary for that purpose.

(2) Where a data controller collects personal data directly from a data subject, the data controller shall at the time of collecting the personal data ensure that the data subject concerned is informed of —

(a) the fact that the personal data is being collected;

(b) the purpose for which the personal data is being collected;

(c) the intended recipients of the personal data;

(d) the name and address of the data controller;

(e) whether or not the supply of the personal data by that data subject is voluntary or mandatory;

(f) the consequences for that data subject if all or any part of the requested personal data is not provided;

(g) whether or not the data collected will be further processed and whether or not the consent of the data subject would be required for the further processing; and

(h) the data subject's right of access to, the possibility of correction of and destruction of, the personal data to be provided.

(3) A data controller shall not be required to comply with subsection (2) —

(a) in respect of a data subject where —

(i) compliance with subsection (2) in respect of a second or subsequent collection will be to repeat, without any material difference, what was done to comply with that subsection in respect of the first collection, and

(ii) not more than 12 months have elapsed between the first collection and the second or subsequent collection.

(b) where —

(i) compliance is not reasonably practicable at the time of collection, provided that the data controller makes available to the data subject all the relevant information specified in subsection (2) as soon as practicable, or

(ii) the personal data is used in a form in which the data subject concerned cannot or could not reasonably expect to be identified.

(4) Where personal data is not collected directly from the data subject concerned, the data controller or any person acting on his or her behalf shall ensure that the data subject is informed of the matters specified in subsection (2).

(5) Subsection (3) does not operate to prevent a second or subsequent collection from becoming a first collection where the data controller has complied with subsection (2) in respect of the second or subsequent collection.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-33

34. Consent for processing of personal data

(1) Subject to subsection (2), a data controller shall not process personal data unless the data controller has obtained the express consent of the data subject.

(2) Notwithstanding subsection (1), a data controller may process personal data without obtaining the express consent of the data subject where the processing is necessary —

(a) for the performance of a contract to which the data subject is a party;

(b) in order to take steps required by the data subject prior to entering into a contract;

(c) in order to protect the vital interests of the data subject;

(d) for compliance with any legal obligation to which the data controller is subject;

(e) for the administration of justice;

(f) for the performance of an activity that is carried out in the public interest or in the exercise of official authority vested in the data controller or in a third party to whom the personal data is disclosed;

(g) for a purpose that concerns a legitimate interest of the data controller or of such a third party to whom personal data is provided, except where such interest is overridden by the interest to protect the fundamental rights and freedoms of the data subject and in particular the right to privacy.

(3) Where the data controller processes personal data under subsection (2)(f) and (g), the data subject shall, except where otherwise provided in any other law in force in Saint Lucia, be entitled to object at any time to the data controller on compelling legitimate grounds to the processing of the personal data.

(4) Where the data controller processes personal data with the consent of the data subject, the data subject may at any time revoke his or her consent for compelling legitimate grounds relating to his or her particular situation.

(5) A data controller who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding $25,000. (Amended by Act 2 of 2015)

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-34

35. Criteria for processing sensitive personal data

A person shall not process sensitive personal data —

(a) except in cases provided for —

(i) in subsection (2) of section 34 or sections 36, 37 and 38,

(ii) in regulations prescribed by the Minister having regard to the public interest; or

(b) unless the data subject —

(i) has given his or her explicit consent to the processing, or

(ii) has published the personal data.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-35

36. Processing of sensitive personal data

The data controller may process sensitive personal data if appropriate safeguards are adopted and the processing is necessary —

(a) for the purposes of exercising or performing any right or obligation which is conferred or imposed by any law in force in Saint Lucia on the data controller;

(b) in order to protect the vital interests of the data subject or another person in a case where —

(i) consent cannot physically or legally be given by or on behalf of the data subject, or

(ii) the data controller cannot reasonably be expected to obtain the consent of the data subject;

(c) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-36

37. Processing concerning health or medical purposes

(1) Sensitive personal data may be processed for health and hospital care purposes, if the sensitive personal data is processed by a health practitioner or other person subject to the obligation of professional confidentiality and the processing is necessary for —

(a) preventive medicine and the protection of public health;

(b) medical diagnosis;

(c) medical research; and (Substituted by Act 2 of 2015)

(d) management of health and hospital care services.

(2) For the purposes of subsection (1), “ health practitioner ” means a person who is registered under the Health Practitioners Act.

(3) Where —

(a) an enactment specifically governs the processing of sensitive personal data for health purposes; and

(b) there is an inconsistency between this Act and the other enactment,

that other enactment shall prevail.

(Inserted by Act 2 of 2015)

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-37

38. Processing and disclosure for research and statistical purposes

(1) A data controller may process or disclose sensitive personal data or may cause sensitive personal data in his or her custody or control to be processed or disclosed for a research purpose, including statistical research only if —

(a) the research purpose cannot reasonably be accomplished unless that data is provided in individually identifiable form;

(b) the data is disclosed or processed on condition that the data is not to be used for the purpose of contacting a person to participate in research;

(c) any record linkage is not harmful to the data subject and the benefits to be derived from the record linkage are clearly in the public interest;

(d) the disclosure or processing is necessary for the purposes stipulated in section 34(2)(f);

(e) the person responsible for the administration of the public authority or in any other case, the chief executive officer of the establishment concerned, has approved conditions relating to the following —

(i) security and confidentiality,

(ii) the removal or destruction of the individual identifiers at the earliest reasonable time,

(iii) the prohibition of any subsequent use or disclosure of that data in individually identifiable form without the express authorization of the public authority or establishment concerned; and

(f) the person to whom the sensitive personal data is disclosed has signed an agreement to comply with the approved conditions, this Act and any of the public authority's or establishment's policies and procedures relating to the confidentiality of personal data.

(2) Personal data may be provided to be used for the purposes referred to in subsection (1), unless otherwise provided by applicable rules on secrecy and confidentiality.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-38

39. Processing concerning legal offences

(1) Data relating to offences, criminal convictions or security measures may only be processed under the control of a public authority.

(2) The Minister may by Regulations authorize any person to process the data referred to in subsection (1), subject to such suitable specific safeguards as may be prescribed.

(3) A complete register of criminal convictions may only be kept under the control of a public authority.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-39

40. Accuracy of personal data

A data controller shall take all reasonable steps to ensure that personal data in his or her possession —

(a) remains accurate; and

(b) is kept up-to-date where such personal data requires regular updating.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-40

41. Use of personal data

A data controller shall ensure that personal data is —

(a) kept only for one or more specified and lawful purposes for which the personal data is to be processed;

(b) not used or disclosed in any manner incompatible with the purposes for which the personal data has been processed;

(c) adequate and relevant for the purpose for which the personal data is to be processed; and

(d) not kept for longer than is necessary for the purpose for which the personal data is to be processed.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-41

42. Security of personal data

(1) A data controller shall —

(a) take appropriate security and organizational measures for the prevention of unauthorized access to, alteration of, disclosure of, accidental loss, and destruction of the personal data in the data controller's control; and

(b) ensure that the measures provide a level of security appropriate to —

(i) the special risks that exist in the processing of the personal data, and

(ii) the nature of the personal data being processed.

(2) A data controller shall take all reasonable steps to ensure that any person employed by the data controller is aware of and complies with the relevant security measures referred to in subsection (1).

(3) Without prejudice to subsection (1), in determining the appropriate security measures, in particular, where the processing involves the transmission of personal data over an information and communication network, a data controller shall have regard to —

(a) the state of technological development available; and

(b) the cost of implementing any of the security measures.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-42

43. Duty to destroy personal data

Where the purpose for keeping personal data has lapsed, the data controller shall destroy the personal data and render the personal data inaccessible as soon as reasonably practicable, in accordance with the Regulations.

Official section URL: https://attorneygeneralchambers.com/laws-of-saint-lucia/data-protection-act/section-43