

B 3488

L.N. 407 of 2021

**DATA PROTECTION ACT
(CAP. 586)**

**Processing of Personal Data (Education Sector) (Amendment)
Regulations, 2021**

IN EXERCISE of the powers conferred by articles 5 and 33 of the Data Protection Act, the Minister for Justice and Governance, after consultation with the Information and Data Protection Commissioner, has made the following regulations:-

Citation.

S.L. 586. 07.

Amends
regulation 2 of
the principal
regulations.

1. The title of these regulations is the Processing of Personal Data (Education Sector) (Amendment) Regulations, 2021 and these regulations shall be read and construed as one with the Processing of Personal Data (Education Sector) Regulations, hereinafter referred to as "the principal regulations".

2. Regulation 2 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be amended as follows:

(i) the marginal note "Cap. 452." to the definition "Corporation" shall be substituted by the marginal note "Cap. 343.";

(ii) the definition "pseudonymous data" shall be deleted; and

(iii) in the definition "student", the words "and, or attending an education institution and, or registered with an examination body" shall be substituted by the words "and, or attending, or having attended, an education institution and, or registered with an examination body"; and

(b) in sub-regulation (2) thereof, the words "in article 2 of the Act" shall be substituted by the words "in article 3 of the Act".

Amends
regulation 3 of
the principal
regulations.

3. In regulation 3 of the principal regulations, the words "where applicable in terms of article 34 of the Act, including in the following cases:" shall be substituted by the words "where the processing of personal data involves particular risks of improper

interference with the rights and freedoms of data subjects, including in the following cases:".

4. Regulation 4 of the principal regulations shall be amended as follows:

Amends
regulation 4 of
the principal
regulations.

(a) in paragraph (b) of sub-regulation (2) thereof, the words "Sensitive personal data shall be requested" shall be substituted by the words "Special categories of data listed in Article 9 of the Regulation shall be requested"; and

(b) sub-regulation (8) thereof shall be amended as follows:

(i) the words "whenever education authorities are involved in national initiatives with regards to employment opportunities, and, or the alignment of jobs with the studies or qualifications achieved, the education authorities may require examination bodies and, or educational institutions to furnish them with such data deemed necessary for the national initiative, provided that:" shall be substituted by the words "whenever education authorities are involved in national and, or European initiatives and, or studies with regard to employment opportunities, and, or the alignment of jobs with the studies or qualifications achieved, the education authorities may require examination bodies and, or educational institutions to furnish them with such data deemed necessary for the national and, or European initiative and, or study, provided that:"; and

(ii) in paragraph (a) thereof, the words "in the implementation of such national initiatives;" shall be substituted by the words "in the implementation of such national and, or European initiatives and, or studies;".

5. Regulation 5 of the principal regulations shall be amended as follows:

Amends
regulation 5 of
the principal
regulations.

(a) in sub-regulation (6) thereof, the words "provided that no sensitive data and student welfare data are retained for such purposes" shall be substituted by the words "provided that no special categories of data and student welfare data are retained for such purposes";

(b) the marginal note "Cap. 452." to paragraph (h) of sub-regulation (8) thereof shall be substituted by the marginal note "Cap. 343."; and

B 3490

(c) the marginal note "Cap. 452." to sub-regulation (9) thereof shall be substituted by the marginal note "Cap. 343.".

Amends
regulation 6 of
the principal
regulations.

6. In regulation 6 of the principal regulations, the words "of article 26 of the Act" shall be substituted by the words "of Article 32 of the Regulation".

Amends
regulation 7 of
the principal
regulations.

7. Regulation 7 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, the words "all the rights under the Act" shall be substituted by the words "all the rights under Chapter III of the Regulation"; and

(b) in sub-regulation (2) thereof, the words "may be withdrawn in writing," shall be substituted by the words "may, pursuant to Article 7 of the Regulation, be withdrawn in writing,".

Amends
regulation 8 of
the principal
regulations.

8. Sub-regulation (5) of regulation 8 of the principal regulations shall be substituted by the following new sub-regulation:

"(5) Where the research involves the processing of special categories of data, such processing shall be approved by the Information and Data Protection Commissioner in terms of article 7 of the Act.".