L.N. 204 of 2023

DATA PROTECTION ACT
(CAP. 586)

Enforcement of the Rights of Data Subjects in relation to Transfers of Personal Data to a Third Country or an International Organisation Regulations, 2023

IN EXERCISE of the powers conferred by article 33(i) of the Data Protection Act, the Minister responsible for data protection, after consultation with the Information and Data Protection Commissioner, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Enforcement of Rights of the Data Subjects in relation to Transfers of Personal Data to a Third Country or an International Organisation Regulations, 2023.

(2) These regulations implement the Council Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council.

(3) The scope of these regulations is to establish rights in Maltese law for third party beneficiaries with respect to transfers of personal data to a third country or an international organisation.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"Act" means the Data Protection Act; Cap. 586.

"identifiable natural person" means a person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

"Minister" means the Minister responsible for data protection;

"Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and

repealing Directive 95/46/EC (General Data Protection Regulation);

"personal data" means any information relating to an identified or identifiable natural person and the said person is known as "data subject".

Third party beneficiary rights.

3. Without prejudice to any other remedy available to the data subject pursuant to the Act and the Regulation, a data subject whose personal data is transferred by a controller or a processor to a third country or to an international organisation pursuant to Article 46 of the Regulation shall be entitled to enforce third party beneficiary rights conferred on data subjects by the instrument concerned, or by any clauses or rules expressed to be for the benefit of data subjects in the said instrument.

Relevant instruments.

4. (1) The relevant instruments for providing appropriate safeguards pursuant to Article 46 of the Regulation and that shall entitle the data subject to third party beneficiary rights, are:

(a) standard data protection clauses adopted by the European Commission in accordance with the examination procedure referred to in Article 93(2) of the Regulation; or

(b) any other instrument granting third party beneficiary rights to the data subjects which is recognised under Chapter V of the Regulation as an appropriate safeguard utilised to regulate the international transfer of personal data.

(2) Any action by the data subject to enforce rights granted to him and any clauses expressed to be for the benefit of the data subject shall be deemed to give rise to an action founded on contract.

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