

# Rights of a Data Subject



People whose personal information are collected, stored and processed are called **data subjects**. Under RA 10173, they are accorded certain rights which they may invoke and enforce against personal information controllers or processors, and which the latter are duty-bound to observe and respect.

In the event that a data subject feels that their personal information has been misused, maliciously disclosed, or improperly disposed, or that any of the rights discussed in this brochure have been violated, the data subject has a right to file a complaint with the National Privacy Commission.



## The right to be informed

The data subject has a right to be informed whether personal data pertaining to him or her will be, are being, or were processed. The data subject should be notified and furnished with the following information before the entry of his or her personal data into the processing system, or at the next practical opportunity:

- a. Description of the personal data to be entered in the system;
- b. Purposes for which they are being or will be processed, including processing for direct marketing, profiling or

- historical, statistical or scientific purpose;
- c. Basis of processing, when processing is not based on the consent of the data subject;
- d. Scope and method of the personal data processing;
- e. The recipients or classes of recipients to whom the personal data are or may be disclosed;
- f. Methods utilized for automated access, if the same is allowed by the data subject, and the extent to which such access is authorized, including meaningful information about the logic involved, as well as the significance and the expected consequences of such processing for the data subject;
- g. The identity and contact details of the personal information controller or its representative;
- h. The period for which the information will be stored; and
- i. The existence of their rights as data subjects.



## The right to object

The data subject has the right to object to the processing of his or her personal data, including processing for direct marketing, automated processing or profiling. He or she should be given an opportunity to withhold consent in case of any amendment to the information supplied to the data subject under the right to be informed.

The personal information controller should not process the personal data without consent unless:

- a. The personal data is needed pursuant to a subpoena;
- b. The collection and processing are for obvious purposes, including, when it is necessary for the performance of or in relation to a contract or service to which the data subject is a party, or when necessary or desirable in the context of an employer-employee relationship between the collector and the data subject; or
- c. The information is being collected and processed because of a legal obligation.

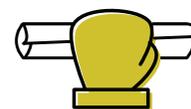


## The right to access

The data subject has the right to reasonable access to, upon demand, the following:

- a. Contents of his or her personal data that were processed;
- b. Sources from which personal data were obtained;
- c. Names and addresses of recipients of the personal data;

- d. Manner by which such data were processed;
- e. Reasons for the disclosure of the personal data to recipients, if any;
- f. Information on automated processes where the data will, or is likely to, be made as the sole basis for any decision that significantly affects or will affect the data subject;
- g. Date when his or her personal data concerning the data subject were last accessed and modified; and
- h. The designation, name or identity, and address of the personal information controller.



## The right to erasure or blocking

The data subject has the right to suspend, withdraw or order the blocking, removal or destruction of his or her personal data from the personal information controller's filing system. This right may be exercised upon discovery and substantial proof of any of the following:

- a. The personal data is incomplete, outdated, false, or unlawfully obtained;
- b. The personal data is being used for a purpose not authorized by the data subject;

- c. The personal data is no longer necessary for the purposes for which they were collected;
- d. The data subject withdraws consent or objects to the processing of his or her information, and there is no other legal ground or overriding legitimate interest for the processing;
- e. The personal data concerns private information that is prejudicial to data subject, unless justified by freedom of speech, of expression, or of the press or otherwise authorized;
- f. The processing is unlawful; or
- g. The personal information controller or personal information processor violated the rights of the data subject.

The personal information controller may notify third parties who have previously received such processed personal information.



## The right to damages

The data subject should be indemnified for any damages

sustained due to such false, incomplete, outdated, unlawfully obtained or unauthorized use of personal data, considering any violation of his or her rights and freedoms as a data subject.

## Transmissibility of Rights of the Data Subject



The lawful heirs and assigns of the data subject may invoke the rights of the data subject at any time after the death of the data subject or when the latter is incapacitated or incapable of exercising his or her rights.

## Right to Data Portability



Where his or her personal data is processed by electronic means and in a structured and commonly used format, the data subject has the right to obtain from the personal information controller a copy of such data in an electronic or structured format that is commonly used and allows further use. The exercise of this right should consider the right of data subject to have control over his or her personal data being processed based on consent or contract, for commercial purpose, or through automated means. The Commission may specify the electronic format, as well as the technical standards, modalities, procedures and other rules for their transfer.

## Limitations on Rights

The provisions of the law regarding transmissibility of rights and the right to data portability will not apply if the processed personal data are used only for the needs of scientific and statistical research and, based on such, no activities are carried out and no decisions are taken regarding the data subject. There should also be an assurance that the personal data will be held under strict confidentiality and used only for the declared purpose.

They will not also apply to the processing of personal data gathered for investigations in relation to any criminal, administrative or tax liabilities of a data subject. Any limitations on the rights of the data subject should only be to the minimum extent necessary to achieve the purpose of said research or investigation.