



Exemptions Applicable to Competent Authorities (under Article 18)

PDPPL-02050210E

Guidelines for Regulated Entities

National Cyber Governance and Assurance Affairs

Version: 2.0

First Published: November 2020

Last Updated: September 2022

Classification: Public



Document History

Version Number	Description	Date
1.0	Published V1.0 document	November 2020
2.0	Published V2.0 document	September 2022

Related Documents

Document Reference	Document Title
PDPPL-02050213A	Privacy Notice Guidelines for Regulated Entities (English)



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These guidelines have been developed for controllers and processors who process personal data electronically; who collect, receive or mine personal data in anticipation of processing it electronically or who process personal data through a combination of electronic and traditional processing techniques. They also serve to provide information to individuals and other interested parties on how organisations should comply with the PDPPL.

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LEGAL MANDATE(S)

Based on the Amiri Decree No. (1) for the year 2021, the National Cyber Governance and Assurance Affairs is empowered by the National Cyber Security Agency (NCSA) as the competent department for administrating and enforcing Law no (13) for the year 2016, the Personal Data Privacy Protection (PDPPL). Article 27 of the Law no (13) for the Year 2016 requires the National Cyber Governance and Assurance Affairs to take all necessary measures for the purposes of implementing the PDPPL. Article 8 of the Law no (13) for the Year 2016 requires the National Cyber Governance and Assurance Affairs to determine what 'appropriate administrative, technical and financial precautions are necessary' for Controllers to demonstrate compliance with the principles outlined by the PDPPL and protect Personal Data.

These guidelines have been prepared to take into consideration the current applicable laws of the State of Qatar. If a conflict arises between this document and the laws of Qatar, the latter shall take precedence. Any such term shall, to that extent, be omitted from this Document, and the rest of the document shall stand without affecting the remaining provisions. Amendments, in that case, shall then be required to ensure compliance with the relevant applicable laws of the State of Qatar. The information in these guidelines is not exhaustive and should be read in conjunction with the PDPPL, guidelines issued by the National Cyber Governance and Assurance Affairs, and any related ministerial decisions.



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1. Key points

- The purpose of these guidelines is to explain the exemptions from certain obligations that apply to competent authorities in certain circumstances under the Personal Data Privacy Protection Law (PDPPL), the impact of such exemptions and how competent authorities should identify situations in which these exemptions apply to them.
- The PDPPL exempts competent authorities from needing to:
 - identify a permitted reason for processing under Article 4
 - notify individuals of certain information prior to processing under Article 9
 - comply with obligations regarding cross-border transfers of personal data under Article 15
 - comply with obligations regarding processing of children's data under Article 17.
- Whether or not competent authorities can rely on an Article 18 exemption depends on why they are processing the personal data.
- Competent authorities should not routinely rely on the exemptions; they should consider them on a case-by-case basis.
- If competent authorities are relying on an Article 18 exemption, they may also qualify for an exemption from some of the individuals' rights under Article 6.
- If no exemption covers what they do with personal data, competent authorities need to comply with the PDPPL in its entirety.
- Competent authorities should justify and document their reasons for relying on an exemption as prescribed in the PDPPL and this guidance.
- Competent Authorities may also qualify for Article 19 exemptions as controllers. For guidance on Article 19 exemptions, please see the data controller exemptions guidelines.



2. Introduction

The PDPPL exempts competent authorities that are processing personal data from complying with Articles 4, 9, 15 and 17 of the PDPPL when processing personal data for the following purposes:

- Protecting National and public security.
- Protecting international relations of the State.
- Protecting the economic or financial interests of the State.
- Preventing any criminal offence or gathering information thereon or investigating therein.

The exemptions for competent authorities can be found under Article 18 of the PDPPL and each exemption is explained in more detail below.



3. Who do the exemptions under Article 18 apply to?

The exemptions under Article 18 apply to all Competent Authorities in the State of Qatar.

A Competent Authority is any central or local government agency or authority or; government entity, organisation, association, or agency owned in whole or part; tribunal, court or regulatory or other agency; as well as any pool of assets owned or sponsored by central or local government or as otherwise prescribed in Qatar law or in these guidelines.

Please note that a Competent Authority is not the data privacy regulator for the PDPPL. The sole Competent Department for administering the PDPPL is the National Cyber Governance and Assurance Affairs of the NCSA.



4. What are the exemptions?

Article 18 relieves competent authorities of some of the obligations set out in the PDPPL when processing for specific purposes. These obligations are set out in Articles 4, 9, 15, and 17 of the PDPPL.

Article 20 relieves competent authorities, by virtue of being the only controllers referred to in Article 18, of the obligation to comply with some of the individual rights, specifically those set out under Article 6 of the PDPPL.

4.1. What does the PDPPL say about exemptions?

Article 18 of the PDPPL says:

*"The Competent Authority **may decide to process some Personal Data**, without abiding by the provisions of Articles (4), (9), (15) and (17) hereof, **for achieving any of the following purposes:***

- 1. Protecting National and public security.*
- 2. Protecting international relations of the State.*
- 3. Protecting the economic or financial interests of the State.*
- 4. Preventing any criminal offence, or gathering information thereon or investigating therein.*

*The Competent Authority **shall keep a special record** where the data achieving the aforementioned purposes shall be entered. Conditions, controls and statuses of entry on such record shall be specified by virtue of a decision issued by the Minister."*

Even where competent authorities are processing personal data for one of these purposes and have exemptions under Article 18 they must still comply with all other obligations in respect of the PDPPL. Guidance on each case in which controllers are exempted under Article 18 is set out below.

Competent Authorities may also qualify for Article 19 exemptions as controllers.

For further information on exemptions under Article 19 please refer to the Guidelines on Exemptions Applicable to Controllers (under Article 19) for Regulated Entities.



5. In what cases do the Article 18 exemptions apply?

5.1. Protecting national and public security

This purpose for exemption under Article 18 applies if a Competent Authority processes personal data for the purpose of protecting national and public security.

5.2. Protecting international relations of the State

This purpose for exemption under Article 18 applies if a Competent Authority processes personal data for the purpose of protecting the international relations of the State of Qatar.

5.3. Protecting the economic or financial interests of the State

This purpose for exemption under Article 18 applies if a Competent Authority processes personal data for the purpose of protecting the economic or financial interests of the State of Qatar.

5.4. Preventing any criminal offence, or gathering information thereon or investigating therein

This purpose for exemption under Article 18 applies only to investigative bodies who are processing the personal data in respect of a crime.

In respect of the investigation of a crime, this will include, but is not limited to, the following:

- the prevention, investigation detection or prosecution of criminal offences or
- the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

This exemption will not apply to processing that is carried out by an investigative body but which is not for the primary purpose of investigations into a crime. For example, if a controller is an investigative body it is very likely that they are also processing personal data for general purposes such as for internal HR processes and procedures. This processing is not strictly for law enforcement purposes and so will not fall under this exemption. The controller should still document and keep a record of such processing.



6. What obligations does each Article 18 exemption relieve competent authorities of?

6.1. Exemption from Article 4 - Permitted reason for processing

If the Competent Authority processes any personal data in relation to the above four cases then it will not need to have a permitted reason for processing such personal data, and may proceed to process the data without a permitted reason.

The Competent Authority must still document and keep a record of such processing. For further information on permitted reasons please refer to the Guidelines on Permitted Reasons for Processing for Regulated Entities.

6.2. Exemption from Article 9 - Privacy notices

If the Competent Authority processes any personal data in relation to the above four purposes then it will not need to comply with the obligation to notify the individual prior to the processing of the following:

- the details of the Controller or any other party processing the personal data;
- the permitted reason for the processing;
- a description and purpose of the processing; and
- any other information required in respect of the processing of the personal data.

For further information on privacy notices please refer to the Guidelines on Privacy Notices for Regulated Entities.

6.3. Exemption from Article 15 - Cross-border transfers

If the Competent Authority processes any personal data in relation to the above four purposes then it will not need to comply with the requirements for cross-border transfers in the PDPPL, and may transfer such personal data outside of Qatar and to any free zone not subject to the requirements of the PDPPL, for example the QFC, as required.

For further information on cross-border transfers please refer to the Guidelines on Cross-Border Data Flows for Regulated Entities.

6.4. Exemption from Article 17 - Obligations for owners and administrators of websites aimed at children

If the Competent Authority owns or administers any websites aimed at children, and in respect of those websites the Competent Authority processes any personal data in relation to the above four purposes, then it will not need to comply with the obligations as set out under Article 17.



7. How do exemptions work in practice?

Whether or not organisations can rely on an exemption will depend on (i) whether an organisation is a Competent Authority and (ii) whether they are processing personal data for one of the four purposes set out above.

Exemptions should not routinely be relied upon or applied in a blanket fashion. Competent authorities must consider each exemption on a case-by-case basis.

If competent authorities cannot identify an exemption that applies to what they are doing with personal data, they must comply with the PDPPL in its entirety.

Competent authorities should document processing activities for which they apply an exemption, including the exemption which they are applying, in their record of personal data processing and data protection policy.



8. Maintaining a record of such exemptions as per the Ministerial Decision

In accordance with Ministerial Decision, the Competent Authority shall maintain a record of the exemptions relied upon as follows:

Under Article 18 of the PDPPL, a record of the exemptions shall be documented when a Competent Authority processes personal data that is necessary for the following purposes:

- Protecting National and public security.
- Protecting international relations of the State.
- Protecting the economic or financial interests of the State.
- Preventing any criminal offence or gathering information thereon or investigating therein.

The requirements for each record are that they must contain at a minimum:

- the name of the Competent Authority;
- the department/business unit within the Competent Authority to which the processing exemption applies;
- the processing activity at a very high level;
- the purpose of the processing that the Competent Authority is relying on as per Article 18 of the Law; and
- a brief description of the types of personal data that are being processed.

These records shall be secured and maintained on an appropriate system within the Competent Authority's IT infrastructure.

The Competent Authority shall nominate an individual to manage and maintain the records and will need to update these records on a quarterly basis.

The records shall be maintained open for inspection by the National Cyber Governance and Assurance Affairs on giving reasonable notice of the same to the Competent Authority in writing.

A record retention schedule laying down the amount of time the recorded file shall be kept shall be maintained to ensure that the recorded files are neither destroyed prematurely nor kept for periods longer than necessary.

The National Cyber Governance and Assurance Affairs may, at its own discretion and in consultation with the Competent Authority, allow for a Competent Authority to dispense with the requirement to maintain the set of records as set out in the Ministerial Decision. When this is the case the National Cyber Governance and Assurance Affairs will agree on this in writing with the Competent Authority.



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