

Ministry of Justice, Islamic Affairs and Waqf

Order No. (46) of 2022 Regarding Data Protection Guardians

Minister of Justice, Islamic Affairs and Waqf:

After reviewing Law No. (30) of 2018 issuing the Personal Data Protection Law, in particular, Article (10) therein,

And Decree No. (78) of 2019 Determining the Administrative Entity to Assume the Duties and Powers of Personal Data Protection Authority,

And upon the submission of the Undersecretary of Justice and Islamic Affairs,

The following has been decided upon:

Article (1) Definitions

When implementing the provisions of this Order, the words and expressions therein shall have the meanings stipulated in the Personal Data Protection Law issued by Law No. (30) of 2018, the following words and phrases shall have the meanings set forth, unless the context requires otherwise:

Law: Personal Data Protection Law issued by Law No. (30) of 2018.

Register: Data Protection Guardians Register stipulated in article (10) of the Law.

External Data Protection Guardian: Natural or legal person enrolled in the data protection guardians register, specifically in the External Data Protection Guardians Section.

Internal Data Protection Guardian: Natural person who works for the Data Controller to perform the duties of a Data Protection Guardian and enrolled in the Internal Data Protection Guardians section.

Article (2)

The appointment of a Data Protection Guardian

The Data Controller may appoint an External or Internal Data Protection Guardian. The Chairman of the Board of Directors may require specific categories of Controllers to appoint an External or Internal Guardian, whenever he deems that the type of work, the nature of the activity, the volume of processing that takes

place, or the manner of processing personal data requires additional monitoring. In all cases, the Data Controller must notify the Authority of the appointment within three working days of doing so.

Article (3)

Data Protection Guardians Register

The register shall have a section for listing External Data Protection Guardians, and another section for listing Internal Data Protection Guardians.

The register shall be published on the Authority's website.

Article (4)

Obligation to be enrolled in the register

Any individual who wishes to be accredited as an external or internal data protection guardian, must be enrolled in the Register.

Article (5)

Conditions to enroll the External Data Protection Guardian in the register

To be enrolled in the register as an External Data Protection Guardian, the following condition shall be met :

First: Natural Persons

1. To be fully competent.
2. To be a holder of a Bachelor's Degree in information technology at least, or a holder of a professional certificate in information security, or information security audit, or cyber security, or has practical experience of no less than two years in any of the mentioned fields.
3. To be of good reputation, and shall not have been finally convicted for a penalty of a breach of trust or a crime affecting his honor or integrity or if he has been convicted for a crime involving breach of professional ethics, unless he has been reinstated.
4. Should not have been dismissed from work based on a disciplinary ruling or decision, or his license to practice his main profession had been revoked or suspended based on disciplinary ruling or decision.

Second: Legal Persons

1. Licensed to work in the Kingdom of Bahrain.
2. Involved in providing legal, or audit, or information technology, or management consulting, or accounting, or risk management services.

3. That among its employees shall be at least three who meet the conditions stipulated for the registration of natural persons.
4. Other conditions determined by the Board of Directors.

Article (6)

Procedures for enrolling an External Data Protection Guardian in the register

An application to enroll the external data protection guardian in the register shall be submitted to the Authority on the designated form via the Authority's website, accompanied by the following supporting documents and data:

First: Natural Person

- 1- Experience certificate
- 2- Good conduct certificate
- 3- Passport or CPR copies
- 4- Personal photo
- 5- Address and contact details
- 6- Qualifications and curriculum vitae

Second: Legal Person

- 1- Copy of Commercial Register and license
- 2- Address and contact details

Article (7)

Deciding on the enrollment request of an External Data Protection Guardian

The Authority shall issue a decision regarding the enrollment application within thirty days from the date submission, that shall fulfill all the conditions, information, and supporting documents stipulated in Article (6) of this Order, the applicant shall be notified of it within seven days from the date of its issuance.

Failure to notify the applicant of the decision within the aforementioned period shall be considered an implicit rejection of the application.

Applicants whose requests has been rejected may appeal against the Authority's decision before the Appeals Committee within thirty days from the date being aware of of the rejection decision or from the date the application was considered implicitly rejected -as the case may be-.

Article (8)
Disclosure by the external data protection guardian

An External Data Protection Guardian who is employed in a public or private sector, must disclose to his workplace, prior every appointment as an external data protection guardian, he shall also disclose to the Data Controller regarding his workplace.

Article (9)

Conditions to enroll the Internal Data Protection Guardian in the Register

To be enrolled in the register as an Internal Data Protection Guardian, the following conditions shall be met, in addition to the requirements necessary to enroll a natural person as an external data protection guardian stipulated in the first paragraph in article (5) of this Order.

- 1- To be among the employees of the Data Controller, or a subsidiary company or one of its branches, or within a regional or international group within the same ownership.
- 2- To have a permanent residence in the Kingdom of Bahrain.

Article (10)

Procedures for enrolling an Internal Data Protection Guardian in the register

A request to be enrolled in the register shall be submitted by the Data Controller electronically through the authority's website, accompanied by the following supporting data and documents:

- 1- Experience certificate.
- 2- Certificate of good conduct
- 3- A copy of the identity card or passport.
- 4- A personal photo.
- 5- Address and contact information.
- 6- Academic qualifications and CV.

Article (11)

Deciding on the enrollment request of the Internal Data Protection Guardian

The Authority shall issue a decision regarding the registration application within thirty days from the date of submitting the application that fulfills all the conditions, information and supporting documents stipulated in Article (10) of Order, and the applicant shall be notified it within seven days from the date of its issuance.

Failure to notify the applicant of the decision within the aforementioned period shall be considered an implicit rejection of the application.

Applicants whose requests has been rejected may appeal against the Authority's decision before the Appeals Committee within thirty days from the date being aware of of the rejection decision or from the date the application was considered implicitly rejected -as the case may be-.

Article (12)

Accreditation of an Internal Data Protection Guardian as an External Data Protection Guardian

The internal data protection guardian may request accreditation as an external data protection guardian if he fulfills the prescribed conditions for that.

Article (13)

Obligations of the external and internal data protection guardian

1- Conflict of interest disclosure regarding the tasks to be undertaken as a Guardian or any other matter that might affect his independence and impartiality, and to disclose if he was or currently is a Guardian for a competing Controller or had personal interests with him that might affect or conflict his duties as a Guardian. He shall immediately disclose again whenever any change has occurred.

2- Non disclosure of any information or data related to the Controller, or the nature of the work, or confidential matters that he could reach, or access, or were under his sight, according to his duty as a Guardian. He shall also not use any of these information or data for his personal interest or the interest of others without any right. Such information are for example and not limited to confidential matters related to the work and sensitive data such as data of customers, employees, and others who deal with the Controller, data of the organizational and technical systems, and any other similar information and data.

Article (14)
Registration Period

The period of registration in the register is one year, starting from the date of registration.

It may be renewed for similar periods by the same procedures and conditions stipulated in this Order, based on a request submitted by the External Data Protection Guardian or the Data Controller - as the case may be – at least thirty days prior the end of the enrollment period, and after paying the renewal fee.

Article (15)
Expiration or cancellation of enrollment

The enrollment of the external or internal data protection guardian in the Register shall end in any of the following cases:

- 1- The death of a natural person, or the cancellation of the enrollment in the commercial register for a legal person.
- 2- The expiration of the enrollment period without renewing it in accordance with the provisions of this Order.

The enrollment of the external or internal data protection guardian in the register shall be canceled in any of the following cases:

- 1- Loss of any of the conditions stipulated in this Order to be enrolled in the register.
- 2- It is proven that the enrollment occurred on the basis of incorrect documents, information or data.
- 3- The External data protection guardian or the data controller requested in writing to cancel the enrollment- as the case may be-
 - 3- If any of the measures stipulated in the law are taken against him for a grave breach.

Article (16)
Fees

The fee for submitting an application to be enrolled in the register as an external or internal data protection guardian, or requesting its renewal must be paid immediately upon its approval.

Article (17)
Monitor and inspection

The authority monitors and inspects the work of the external and internal data protection guardians to ensure their compliance with the provisions of the law and its Orders, and shall take the necessary measures regarding any violations.

Article (18)
Refer the violating Data Protection Guardian to investigation

Subject to the provisions stipulated in the first section of the third part of the Law, the Authority may refer The Data Protection Guardian for investigation in the event that it is proven that he has violated any of the obligations stipulated in Article (13) of this Order, or any other obligations imposed under the Law or the Orders issued in implementation thereof, and the Data Protection Guardian shall not be disciplinary liable due to performing his obligations.

Article (19)
Liability of Data Protection Guardians that are legal persons

External Data Protection Guardians that are legal persons shall be liable for the actions of the natural persons who are enrolled in the register as data protection guardians, without prejudice to their responsibility for the violations or misconduct committed by them.

Article (20)
Entry into force

The Undersecretary of Justice and Islamic Affairs shall implement the provisions of this Order, and it shall come into effect on the next day following the date of publication in the Official Gazette.

**Minister of Justice, Islamic Affairs and Waqf
Khalid bin Ali bin Abdulla Al Khalifa**

Issued on: 14 Sha'ban 1443 AH

Corresponding to: Thursday, March 17, 2022 AD