



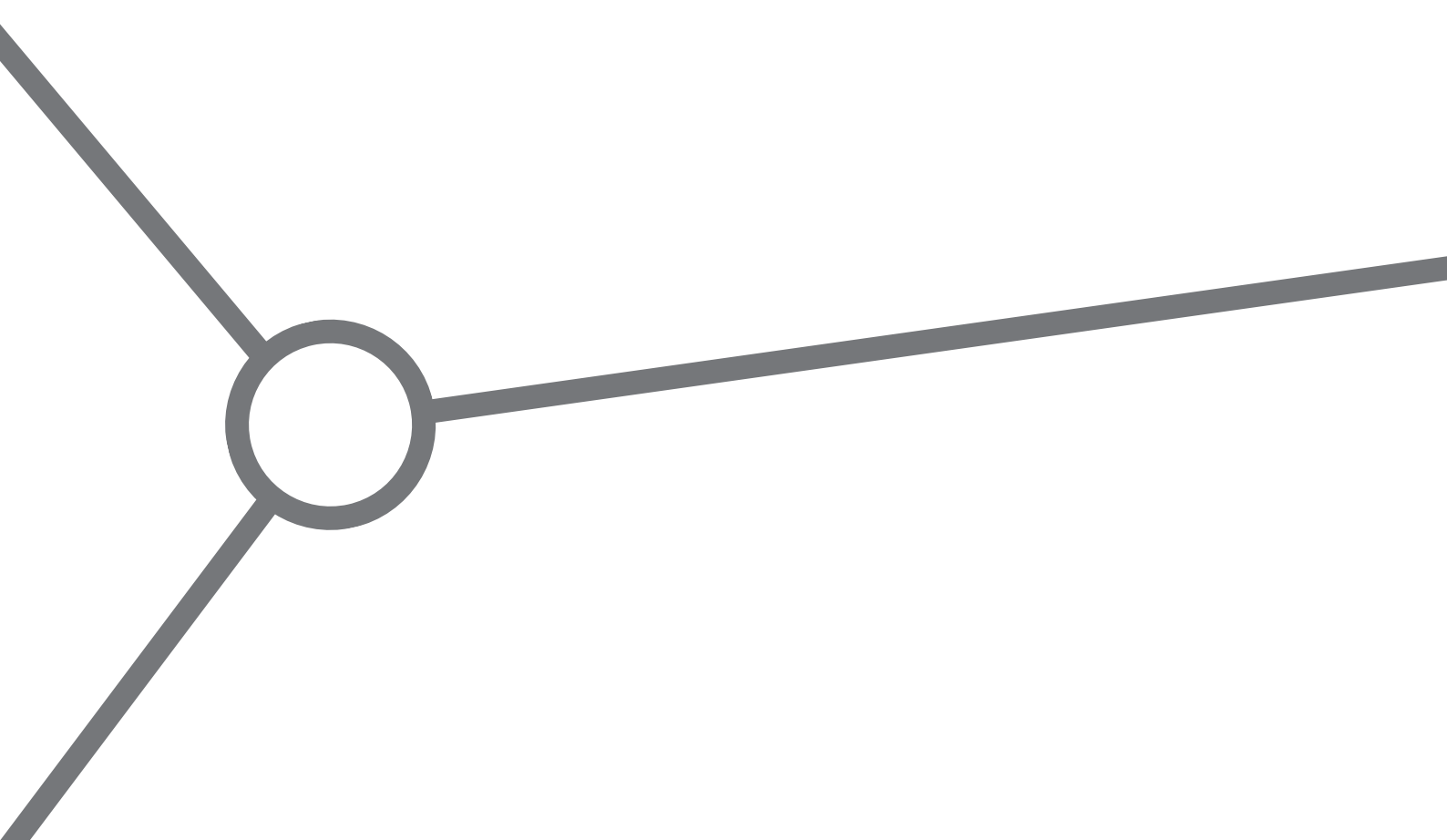
**NOTABLE DEVELOPMENTS IN
RWANDA'S DATA PROTECTION
AND PRIVACY REGULATORY
LANDSCAPE**

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From K-Solutions & Partners | ALN Rwanda

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INTRODUCTION

Rwanda has made significant strides in data protection and privacy with the enactment of **Law no. 058/2021 of 13 October 2021** Relating to the Protection of Personal Data and Privacy ('Data Protection and Privacy Law'), which came into force on the 15th of October 2021.

KEY FEATURES OF THE DATA PROTECTION AND PRIVACY LAW :

A Rwandan company appoints a natural person as a director when the person meets the below requirements:

- **Scope and Applicability:** The law has an extra-territorial scope and applies to data controllers and processors both within Rwanda and those outside the country that process personal data of individuals located in Rwanda.
- **Legal Grounds for Data Processing:** Processing personal data is permissible based on several grounds, including explicit consent, contractual necessity, legal obligations, protection of vital interests, public interest tasks, official authority, legitimate interests of the data controller or third parties, and authorized research purposes.
- **Data Subject Rights:** Individuals are granted rights such as access to their data, rectification, erasure, objection to processing, restriction of processing, data portability, and the unique right to designate an heir for their personal data where the data subject had left a will providing his or her heir with full or restricted rights relating to the processing of personal data kept by the data controller or the data processor, if such personal data still need to be used.
- **Obligations for Controllers and Processors:** Requirements include maintaining records of processing activities, ensuring data security and confidentiality, conducting data protection impact assessments, appointing a data protection officer under certain conditions, notifying authorities of data breaches within 48 hours, and registering with the supervisory authority before commencing data processing activities.
- **Notification requirements:** The Law does not only regulate how companies and organizations should protect personal data, it also stipulates what they should do in the event of a security breach that affects personal data. In case of personal data breach, the data controller, within forty-eight (48) hours after being aware of the incident, must communicate the personal data breach to the NCSA. Where the data processor becomes aware of personal data breach, he or she notifies the data controller within forty-eight (48) hours after being aware of the incident.

A report on personal data breach has to be drawn up by the data controller and submitted to the NCSA not later than **seventy-two (72) hours**, with all facts available. The report should have the following descriptions:



- 1 The nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;



- 2 The contact details of the personal data protection officer or other contact point where more information can be obtained;



- 3 The measures taken to address the personal data breach, including measures to mitigate its possible adverse effects;



- 4 The acts relating to personal data breaches, the consequences of the personal data breach and the measures taken to rectify such a breach;



- 5 His or her proposal for communicating the personal data breach to affected data subjects and the timeline for such a communication, for approval by the supervisory authority.

- **Supervisory Authority:** The Law **no 26/2017 of 31/05/2017** establishing the **National Cyber Security Authority(NCSA)** and determining its mission, organisation and functioning provides it with supervisory powers to among other matters set guidelines and standards for cyberspace protection and ICT security within public and private institutions.



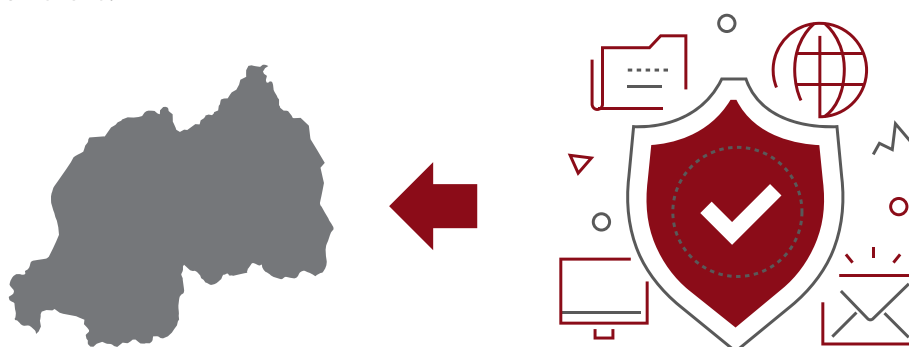
National Cyber
Security Authority



NATIONAL BANK OF RWANDA
BANKI NKURU Y'U RWANDA

The NCSA officially launched its data protection office on the 31st of March 2022 to spearhead all activities related to protecting personal data of individuals in Rwanda through overseeing the implementation of the Law **of 13/10/2021** relating to the protection of personal data and privacy in collaboration with sector-specific regulatory bodies like the **Rwanda Utility Regulatory Authority(RURA)** and **National Bank of Rwanda(NBR)** which oversee compliance within their respective domains.

Data Localization: The law mandates that personal data be stored within Rwanda unless the supervisory authority grants authorization for cross-border data transfers.



- **Data Retention:** The law allows retention of personal data until the purposes of the processing of personal data are fulfilled. Retention can be for a longer period if it is authorised by Law, required by a contract concluded between the parties, related to a function or activity for which the personal data are collected or processed, preventing, detecting, investigating, prosecuting or punishing an offender, protecting national security, enforcing a court order, enforcing legislation relating to collection of public revenues, conducting proceedings before a court, carrying out research authorised by a relevant authority and if the data subject consents.
- **Penalties for Non-Compliance:** Organizations that fail to comply with the law may face fines up to 5% of their annual turnover of the previous financial year and the cancellation of their right to process personal data.

IMMEDIATE NEED FOR COMPANIES REGARDING COMPLIANCE:

a) Register as either Data Controller or Data Processor

A data controller is defined as a natural person, public or private corporate body or legal entity which, alone or jointly with others, processes personal data and determines the means of their processing while a **data processor** is a natural person, public or private corporate body or legal entity, which is authorised to process personal data on behalf of the data controller.

It is mandatory for any natural person, public or private corporate body intending to be a Data Controller or a Data Processor to register with the Data Protection and Privacy Office under National Cyber Security Authority (NCSA) and receive a registration certificate.

Operating without a registration certificate is an administrative misconduct punishable by paying an administrative fine of not less than **two million Rwandan francs (RWF 2,000,000)** but not more than **five million Rwandan francs (RWF 5,000,000)** or **one percent (1%)** of the global turnover of the preceding financial year in the event of a corporate body or a legal entity.

b) Once registration is complete, as part of compliance, the NCSA also requires the Data Controller or Data Processor to also lodge the following applications:

i. Application for storage of data outside Rwanda:

The data controller or the data processor seeking to share or transfer personal data to a third party outside Rwanda has to obtain authorization from the supervisory authority after providing proof of appropriate safeguards with respect to the protection of personal data. This is done by submitting a duly filled Application form for storage of data outside Rwanda together with the other requirements.

iii. Application for transfer of data outside Rwanda:

The data controller or the data processor who seeks to transfer data to a third party outside Rwanda may do so after filling in the Application Form for Transfer of Personal Data outside Rwanda accompanied by other requirements.

How we assist:

We have assisted a large number of local and multi-national clients with navigating through the all the above applications in order to achieve compliance.

This entails reviewing and advising on the information to include in the Application forms, drafting several compliance documents required to fulfil various requirements of Rwanda's Data Protection and Privacy Law.



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