

Data. Protection. Adding Value.

GDPR Local Insights*



Malta

Legislation

The Data Protection Act (Chapter 586 of the laws of Malta), supplemented by subsidiary legislations in special areas, such as the electronic communications sector.

Supervisory Authority

The **Office of the Information and Data Protection Commissioner** (IDPC) is the competent supervisory authority in Malta to monitor and enforce compliance with the provisions of the GDPR and the Data Protection Act.

Special Conditions for Data Processing

- There are special rules related to the processing of personal data related to **minors**, such as the exemption to obtain the consent of the parent or the legal guardian of the minor in specific instances.
- Personal data (including sensitive data) may be processed for the purposes of implementing the **General Elections Act** and the **Local Government Act**.
- The processing of personal data related to health is deemed to be in the substantial public interest when such processing is carried out in the context of the **business of insurance** or insurance distribution activities.
- Certain restrictions apply to the processing of personal data in the **education sector**, e.g. specific conditions for the processing of students' medical data are outlined, and consent is mandatory (from students aged above 16 or inversely, from their parents or legal guardians) for the processing of visual images.

Special Categories of Data

- As mentioned above, the processing of health data in the context of **insurance activities** is deemed of substantial public interest.
- Competent authorities may only process special categories of personal data for the purposes of the prevention, investigation, detection or prosecution of **criminal offences** or the execution of criminal penalties, where such processing: (i) is authorised by law; (ii) is necessary to protect the vital interests of the data subject or of another individual; or (iii) relates to personal data which was made manifestly public by the data subject.
- Controllers must consult with and obtain prior authorisation from the IDPC in cases where they intend to process in the public interest (i) genetic data, biometric data or data concerning health for **statistical or research purposes**; or (ii) special categories of data for the management of social care services and systems.
- With regards to the **education sector**, controllers must delete all medical data once the student has left the the concerned institution.

Restrictions on Individuals' Rights

Controllers are exempted from the obligations of Chapter III of the GDPR in instances where personal data is processed for, *inter alia*, **journalistic purposes** or for academic, artistic or literary expression. To **avoid prejudicing** the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties, and to protect **public and national security**, competent authorities may delay, restrict, or omit the requirements of Article 13 of the GDPR. Furthermore, restrictions on data subject rights apply for the administration of **tax, duty and fines**, the establishment, exercise or defence of **legal claims**, and for the administration of **social security benefits** (amongst others).

Other Relevant Exemptions

Providers of publicly available electronic communications services must notify the IDPC without undue delay in cases of personal data breaches, and must keep an inventory of such breaches.

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*The overview intends to provide general insights on the level of supplementary rules implemented in a country and for such purpose provides examples where the relevant member states have made use of the exemption provided by the GDPR. It is therefore non-exhaustive.

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