



DATA PRIVACY

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CONTACT INFORMATION

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- 1. Provide a brief description of the subject matter of data privacy laws in your jurisdiction that are applicable to Personally Identifiable Information, and any material obligations.**
 - a) What is the cite to such laws? Provide a link, if available, to an online copy of such law.**

Data privacy in Barbados is dealt with under various pieces of legislation. There is a draft Data Protection Bill that seeks to provide for the regulation of the collection, keeping, processing, use or dissemination of personal data and the protection of the privacy of individuals in relation to personal data but this has not yet been passed into law.

Section 22 of the Electronic Transactions Act, Cap. 308B of the laws of Barbados (ETA), prohibits the use of information obtained under the ETA and that relates to the private affairs of a natural person without that person's consent. However, this prohibition does not apply where disclosure of information is made in certain circumstances including in connection with the investigation of any criminal offence or for the purpose of facilitating the carrying out of prescribed public functions of any person.

A copy of the ETA may be found at:

<http://www.commerce.gov.bb/Legislation/Documents/CAP%20308B.PDF>

b) What are the penalties imposed for a breach of such law? Any criminal sanctions?

Section 22(5) of the ETA provides that any person who discloses any information in contravention of the section is liable on summary conviction to a fine of \$10,000 or imprisonment for a term of two years or to fine of \$10,000 or to both.

c) Identity the applicable administrative authority with jurisdiction for enforcement of such laws.

Section 22(6) of the ETA provides that the Minister may make regulations prescribing the standards for the processing of personal data whether that data originates within or outside of Barbados. No regulations have been prescribed to date.

d) Any additional information that is material?

The ETA provides that the regulations may provide for the registration of standards by data controllers and data processors.

A data controller who registers a standard must comply with the standard and any amendments made to that standard in respect of any personal data that originates from a country to which the standard applies and is collected by the data controller during the period of registration. A data controller who fails to comply with this provision is guilty of an offence and is liable to summary conviction to imprisonment for a term of six months or to a fine of \$5000 or to both.

2. Provide a brief description of the subject matter of data privacy laws in your jurisdiction that are applicable to Personal Health Information, and any material obligations.

a) What is the cite to such laws? Provide a link, if available, to an online copy of such law.

There is no legislation that provides for data privacy as regards personal health information. Generally, doctors owe a common law duty of confidentiality to their patients. The patient's confidential information should not be disclosed to a third party without his consent. In the absence of consent, members of the medical profession are in

breach of their duty if they disclose such information unless required to do so by due process of law.

A doctor may only disclose a patient's personal health information under the following circumstances:

- i. when giving testimony in a court of law;
- ii. where the patient has given express or implied consent; or
- iii. where it is required in the public interest.

A patient may give express or implied consent to the disclosure of confidential information by their doctor. However, whether consent is implied is a question of fact and the burden of proof lies on the doctor to prove that consent was given.

b) What are the penalties imposed for a breach of such law? Any criminal sanctions?

N/A

c) Identify the applicable administrative authority with jurisdiction for enforcement of such laws.

N/A

d) Any additional information that is material?

N/A

3. Provide a brief description of the subject matter of data privacy laws in your jurisdiction that are applicable to Financial Information, and any material obligations.

a) What is the cite to such laws? Provide a link, if available, to an online copy of such law.

The main statutes applicable to data privacy with respect to financial information are:

The Financial Institutions Act, Cap. 324A of the laws of Barbados (FIA) -

[http://www.centralbank.org.bb/WEBCBB.nsf/web_documents/C03B815750FE1F3E042572FC0012E992/\\$File/financial_institutions_act.pdf](http://www.centralbank.org.bb/WEBCBB.nsf/web_documents/C03B815750FE1F3E042572FC0012E992/$File/financial_institutions_act.pdf)

The Securities Act, Cap. 318A of the laws of Barbados (SA) –

[http://www.seccom.com.bb/\(S\(wyvc3545xitiucf51421s055\)\)/media/documents/SecuritiesActCAP318A_2002.pdf](http://www.seccom.com.bb/(S(wyvc3545xitiucf51421s055))/media/documents/SecuritiesActCAP318A_2002.pdf)

The Securities Regulations, 2002 (SR)-

[http://www.seccom.com.bb/\(S\(wyvc3545xitiucf51421s055\)\)/media/documents/Securities_Regulations_2002.pdf](http://www.seccom.com.bb/(S(wyvc3545xitiucf51421s055))/media/documents/Securities_Regulations_2002.pdf) and

The Central Bank of Barbados Act, Cap. 323C of the laws of Barbados (CBA).

[http://www.centralbank.org.bb/WEBCBB.nsf/web_documents/B6F606E8405FEE63042572FA00705583/\\$File/cbb_act.pdf](http://www.centralbank.org.bb/WEBCBB.nsf/web_documents/B6F606E8405FEE63042572FA00705583/$File/cbb_act.pdf)

The FA: Section 44 of the FA provides that subject to s. 43 (7) and s. 44(2), no statement, return or information furnished or submitted by a licensee in respect of its business shall be disclosed by the Central Bank, any officer of Central Bank or any person authorized by the Central Bank to receive such information on behalf of the Central Bank. Section 43(7) provides for the Central Bank to publish information submitted on the quarterly returns of each licensee in the Official Gazette and a daily newspaper but prohibits the publication of information in respect of the affairs of a particular customer. Section 44(2) permits the Central Bank to disclose information without the consent of a licensee to the Director of Public Prosecutions, Commissioner of Inland Revenue or the appropriate supervisory authority of financial institutions outside Barbados at the request of that authority, where there is a branch, holding company or affiliate of the licensee operating in that country.

See response 3d for more on the CBA, SA and SR.

b) What are the penalties imposed for a breach of such law? Any criminal sanctions?

Any person who contravenes section 18(1) of the CBA is guilty of an offence and liable to summary conviction to a fine of \$500 or to imprisonment for 6 months or to both.

A person who contravenes section 18(1) or (2) of the SA is guilty of an offence and liable on summary conviction to a fine of \$50 000 and to imprisonment for 12 months.

c) Identity the applicable administrative authority with jurisdiction for enforcement of such laws.

The Minister of Finance and the Securities Commission are the applicable administrative authorities.

d) Any additional information that is material?

The CBA provides for the establishment of the Central Bank of Barbados (the Bank) and for related matters. Pursuant to section 18(1) of the CBA, no Director officer or employee of the Bank shall disclose to any person any material information relating to the affairs of the Bank or of any other bank or financial institution or other person, firm, company or organization which he acquired in the performance of his duties or the exercise of his functions, except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provision of the law. The SA provides for the establishment of a Securities Commission and makes provision for the regulation of the securities market and the capital market, the protection of investors and related matters. Pursuant to section 8(1) of the SA, no Commissioner or other person employed or retained by the Commission shall make, use, either directly or indirectly, of any confidential information obtained as a result of his relationship with the Commission for his own benefit or advantage. Pursuant to section 8(2) confidential information may also not be disclosed unless it is in connection with the enforcement of the SA of any other law in Barbados. The SR are regulations made by the Minister of Finance in exercise of the powers conferred on him by section 126(7) of the SA. Regulation 5(c) of the SR prohibits the members of the Security Commission (the Commission), the General Manager and each officer, clerk or other persons who are employed by the Commission or who hold office or an appointment under the SA or the SR or any person to whom any authority has been delegated by the Commission from divulging or releasing, in advance or otherwise, confidential, non-public or official information to a person unless they are authorized under the SA or the SR.

- 4. Provide a brief description of the subject matter of data privacy laws in your jurisdiction that is applicable to other sensitive data, and any material obligations.**
- a) **What is the cite to such laws? Provide a link, if available, to an online copy of such law.**
- There is no legislation that otherwise applies to other sensitive data.
- b) **What are the penalties imposed for a breach of such law? Any criminal sanctions?**
- N/A
- c) **Identify the applicable administrative authority with jurisdiction for enforcement of such laws.**
- N/A
- d) **Any additional information that is material?**

Barbados
N/A

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