

BELIZE:

PUBLIC SECTOR DATA SHARING BILL, 2021

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BELIZE:

BILL

for

AN ACT to facilitate the sharing of data between public sector agencies and other entities; to provide for an Office for Data Analytics; and to provide for matters connected therewith or incidental thereto.

(Gazetted, 2021).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

PART I

Preliminary

1. This Act may be cited as the

PUBLIC SECTOR DATA SHARING ACT, 2021.

Short title.

2.-(1) In this Act—

Interpretation.

“data” means any facts, statistics, instructions, concepts or other information in a form that is capable of being communicated, analysed or processed whether by an individual or by a computer or other automated means;

“data analytics work” means the examination and analysis of data for the purpose of drawing conclusions about that data including, for example, conclusions about the efficacy of Government policies, program management or service planning and delivery by government sector agencies;

“data provider” means the public sector agency that controls public sector data provided under this Act to a data recipient;

“data recipient” means the public sector agency to which public sector data is provided under this Act;

“exempt public sector data” means—

- (a) public sector data held by a prescribed public sector agency; and
- (b) any other public sector data, or public sector data of a kind, prescribed by the Act and any regulations;

“health information” refers to human health information;

“Minister” means the Minister responsible for digital transformation, e-governance or information technology;

“Office” means the Office for Data Analytics established under section 5;

“public sector agency” includes—

- (a) a Government Ministry, Department or Unit;
- (b) a statutory body;
- (c) a person or body exercising public official functions declared by regulations to be a public sector agency for the purposes of this Act; and

“public sector data” means any data that a public sector agency controls, but does not include data of a kind exempted by this Act or any regulations made under this Act.

(2) For the purposes of this Act, a person is taken to have control of data if that person—

- (a) has possession or custody of the data; or
- (b) has the data in the possession or custody of some other person or body.

Objectives of the Act.

3. The objectives of this Act are—

- (a) to promote, in a manner that recognises the protection of privacy as an integral component, the management and use of public sector data as a public resource that supports good government policy making, program management and service planning and delivery;
- (b) to facilitate the expeditious sharing of public sector data between public sector agencies; and
- (c) to provide protections in connection with data sharing under this Act by—

- (i) specifying the purposes and circumstances for which data sharing is permitted or required;
- (ii) ensuring that data sharing, involving health information or personal information, continues to be in compliance with the requirements of the data protection and privacy legislation concerning the collection, use, disclosure, protection, keeping, retention or disposal of such information; and
- (iii) requiring compliance with data sharing safeguards under Part IV in connection with data sharing.

4.—(1) Subject to sub-section (2), the sharing of public sector data by a public sector agency to another public sector agency is lawful for the purposes of any other enactment that would otherwise operate to prohibit that provision, whether or not the prohibition is subject to specified qualifications or exceptions, if—

Interaction with other Acts.

- (a) this Act provides that the public sector agency is authorised to provide the other public sector agency with the public sector data; and
- (b) the public sector agency provides the public sector data to the data recipient only for the purpose to which the authorisation relates.

(2) Nothing in this Act authorises, permits or requires a data recipient—

- (a) to use or disclose public sector data received under this Act for a purpose other than the purpose to which the authorisation to provide the data relates; or
- (b) to deal with any public sector data to which the Freedom of Information Act applies after it is provided under this Act, otherwise than in compliance with the Freedom of Information Act.

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(3) If a document, within the meaning of the Freedom of Information Act, is provided by a data provider to a data recipient under this Act, notwithstanding the provisions of the Freedom of Information Act, the following provisions apply—

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- (a) a person shall not have a right to access the document under the Freedom of Information Act from the data recipient and shall not be given access to the document by the data recipient; and
- (b) where an application has been made to the data recipient to seek access to the document under the Freedom of Information Act—
 - (i) the data recipient shall refer the application to the data provider; and

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- (ii) the application shall be taken to be transferred to the data provider under the Freedom of Information Act.

(4) This Act shall not prevent the sharing of public sector data by public sector agencies if it is permitted or required by or under any other Act or law.

PART II

Facilitating Public Sector Data Sharing

Office for Data Analytics.

5.—(1) There is hereby established the Office for Data Analytics which shall be an office in the Ministry responsible for digital transformation, e-governance or information technology.

(2) The functions of the Office are—

- (a) to undertake data analytics work on public sector data received from across public sector agencies;
- (b) to make available the results of data analytics work to—
 - (i) public sector agencies;
 - (ii) private sector; and
 - (iii) the general public; and
- (c) to perform any other function conferred under this Act.

(3) The Office is to undertake its functions in a manner that prioritises the sharing of relevant and up to date information to public sector agencies about data analytics work.

(4) The Office may, with the written approval of the Minister, direct a public sector agency to provide public sector data to the Office for the purposes of carrying out its functions.

(5) The Minister shall have regard to the trusted access principles under section 6, before granting an approval under sub-section (4).

(6) The Minister may impose specified requirements or limitations on the power of the Office to make a direction under sub-section (4).

(7) The Office shall comply with all relevant data sharing safeguards under Part III, in respect of public sector data provided to it under this section.

(8) The Office shall comprise of such number of staff as the Minister considers necessary to carry out the functions of the Office.

6.-(1) For the purpose of sharing and using public sector data, every data provider shall determine—

Trusted access principles.

- (a) the purpose for which the data is to be shared and used;
 - (b) whether the data recipient is an appropriate public sector agency;
 - (c) whether the results of data analytics work is appropriate for disclosure or publication.
- (2) For the purposes of sub-section (1)(a) regard shall be had to—
 - (a) the proposed use of the public sector data;
 - (b) whether the public sector data is necessary for the purpose;
 - (c) whether the purpose for which the public sector data is proposed to be shared and used shall be of value to the public;
 - (d) whether the public interest in the proposed sharing and use of the public sector data outweighs any contrary public interest; and
 - (e) whether there is a risk of loss, harm or other detriment to the community if the sharing and use of the public sector data does not occur.
- (3) For the purposes of sub-section (1)(b) regard shall be had to—
 - (a) whether the proposed data recipient is appropriately equipped and in possession of the relevant skills and experience to effectively use public sector data for the proposed purpose; and
 - (b) whether the proposed data recipient will restrict access to the public sector data to specified persons with appropriate security clearance.
- (4) For the purposes of sub-section (1)(c) regard shall be had to—
 - (a) the nature of the proposed publication or disclosure;
 - (b) the audience of the publication or disclosure;
 - (c) the likelihood and extent to which the publication or disclosure may contribute to the identification of a person to whom the data relates; and

- (d) whether the results of the data analytics work, or other data for publication or disclosure, is to be audited and whether that process involves the data provider.

Regulations for the safe and secure sharing and use of public sector data.

7. The Minister may make regulations to provide for any additional requirements for the safe and secure sharing and use of public sector data for the purposes of the trusted access principles.

Public sector data sharing authorisation.

8.—(1) A public sector agency is authorised to share public sector data that it controls with another public sector agency for any of the following purposes—

- (a) to enable data analytics work to be carried out on the data; and
- (b) to enable related public sector agencies to develop better government policy making, program management and service planning and delivery by the agencies.

(2) If public sector data is shared under this Act, the data provider and the data recipient shall comply with all data sharing safeguards that are applicable to that public sector data.

Data sharing on direction by Ministers.

9.—(1) The Minister may direct a public sector agency to provide public sector data that it controls, including exempt public sector data, to another public sector agency for any of the purposes referred to in section 7.

(2) A direction of the Minister under sub-section (1)—

- (a) authorises the public sector agency specified in the direction to provide public sector data in accordance with the direction;
- (b) is binding on each public sector agency referred to in the direction; and
- (c) shall, in relation to the provision of public sector data, specify—
 - (i) the nature and extent of the public sector data to be provided; and
 - (ii) the purposes for which the public sector data is to be provided.

(3) When making a direction under this section, in relation to public sector data, the Minister shall—

- (a) have regard to the trusted access principles; and
- (b) be satisfied that the sharing and use of the public sector data is appropriate in all the circumstances.

(4) A public sector agency shall, on being directed to provide data under subsection (1), provide the data to the data recipient as soon as is reasonably practicable.

(5) If public sector data is provided under this section, the data provider and the data recipient shall comply with the relevant data sharing safeguards under Part III.

PART III

Data Sharing Safeguards

10.—(1) A data provider and data recipient shall ensure that health information or personal information contained in public sector data that is capable of being shared is not collected, used, disclosed, protected, kept, retained or disposed of otherwise than in compliance with this Act and any other data protection and privacy legislation and the Belize Constitution.

Privacy
safeguards.

CAP. 4.

(2) If a data recipient, that is provided public sector data that contains health information or personal information, becomes aware that the data protection and privacy legislation or the Belize Constitution, is, has been or is likely to be contravened in relation to that information while in the data recipient's control, the data recipient shall, as soon as is practicable after becoming aware of the contravention or likely contravention, inform the data provider and the Minister of the contravention or likely contravention.

CAP. 4.

11.—(1) A data recipient that is provided with public sector data that contains confidential or commercially sensitive information shall ensure that the information is dealt with in a way that complies with any contractual obligations of the data provider concerning how it is to be dealt with.

Confidentiality
and commercial-
in-confidence.

(2) In this section, “confidential or commercially sensitive information” means—

- (a) information a person controls that the person is required to keep confidential under a contractual or equitable obligation;
- (b) without limiting paragraph (a), information about commercial-in-confidence provisions of a contract; or
- (c) any other information, the disclosure of which would prejudice any person's legitimate business, commercial, professional or financial interests.

12.—(1) A data provider and data recipient shall ensure that public sector data that is shared is maintained and managed in compliance with any legal requirements concerning its custody and control.

Data custody and
control
safeguards.

(2) Where a data recipient arranges for a person, other than another public sector agency, to conduct data analytics work using public sector data, the Chief Executive Officer or Head of Department, as the case may be, shall ensure that appropriate contractual arrangements are in place before the public sector data is provided to ensure that the person deals with the data in compliance with any requirements of the data protection and privacy legislation, the Belize Constitution, and any Government data security policies that are applicable to the data recipient.

Other data
sharing
safeguards.

13.—(1) A data provider and data recipient shall comply with any other requirements as may be prescribed in regulations made by the Minister for the data provider or data recipient in connection with the sharing of public sector data.

(2) Without limiting sub-section (1), a requirement prescribed in regulations for the purposes of that sub-section may require a data provider or data recipient to comply with any of the following in connection with the sharing of public sector data—

- (a) codes of practice, guidelines or directions prescribed under any data protection and privacy legislation;
- (b) any other codes of practice, guidelines, directions or publications specified or issued, made or published.

PART IV

Miscellaneous

Indemnity.

14. A person shall not be subject to any action, claim or demand by, or liability for anything done or omitted to be done in good faith in the discharge or in connection with the discharge of the functions conferred under this Act.

Annual report.

15.—(1) The Minister shall, not later than three months after the end of each financial year, cause a report to be prepared about the operation of this Act during the year ending on 30 June of that year.

(2) Without limiting sub-section (1), a report under sub-section (1) shall include the following matters—

- (a) in relation to the provision of public sector data under section 5(4), a list of such directions including, in respect of each direction—
 - (i) the identity of the data provider and data recipient;
 - (ii) the nature of the data;

- (iii) whether the public sector data contains personal information; and
 - (iv) whether the data was, at the time of the direction, exempt public sector data;
 - (b) a summary of the results of data analytics work undertaken by the Office and made available to public sector agencies, the private sector or the general public;
 - (c) in relation to the sharing of public sector data containing personal information under section 10(1), a list of each sharing including—
 - (i) the identification of the data provider and data recipient;
 - (ii) the general nature of the data; and
 - (iii) the purpose for which the data was shared;
 - (d) a list of all directions made by the Minister under section 9(1), including, in respect of each direction—
 - (i) the identification of the data provider and data recipient;
 - (ii) the general nature of the public sector data;
 - (iii) the purpose for which the public sector data is provided;
 - (iv) whether the direction related to public sector data containing personal information; and
 - (v) whether the data was, at the time of the direction, exempt public sector data.
- (3) The Minister shall, within seven working days after receipt of a report under this section, cause copies of the report to be laid before the National Assembly.

16.—(1) The Minister may make Regulations as are necessary or expedient for the purposes of this Act and for prescribing anything required to be prescribed under this Act.

Regulations

- (2) Notwithstanding the generality of sub-section (1), regulations may—
 - (a) be of general application or limited application;
 - (b) make different provisions according to the person, matter or circumstance to which they are to apply;

- (c) provide that a matter in respect of which regulations may be made is to be determined according to the discretion of the Minister or a prescribed person; and
 - (d) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time.
- (3) If a code, standard or other document is referred to or incorporated in regulations made under this section—
 - (a) in cases where it is incorporated by reference, a copy of the code, standard or other document shall be kept available for public inspection, without charge and during ordinary office hours, at an office or place specified in the regulations,; and
 - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document certified by the Minister to be a true copy of the code, standard or other document.