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# THE PRINCIPLES OF DATA HYGIENE

The global workspace is fast evolving to normalize virtual workspaces. This change has prompted companies to upgrade their data protection systems to protect sensitive and personal data. More so, all who process personal data must legally recognize the right of an individual to the privacy of his or her communications. In Ghana, the Data Protection Act, 2012 (Act 843) (the "Act") governs this endeavour, with the fundamental rule that the right of a "data subject" to privacy must be protected. In giving expression to this rule, the Act highlights eight (8) underlying principles which data controllers and data processors must bear in mind when processing personal data.

## 1. Accountability

Any person who processes or controls personal data should ensure that it does not infringe on the privacy rights of the data subject; it is done in a lawful manner; and in a reasonable manner.

## 2. Lawfulness of Processing

Only data which is authorized or required by law, and necessary and relevant for the

purpose it is intended, may be processed. In addition, the data must protect a legitimate interest of the data subject; be necessary for the performance of a statutory duty, legitimate interest of the data controller or a third party to whom the data is supplied. Where the purpose does not meet this standard, it is deemed an unlawful infringement on the rights of the subject.

Finally, personal data should be collected directly from the data subject or must fall within the exceptions specified in the Act. Having recorded the data, a data processor must not hold on to such data for longer than necessary unless the data was recorded for historical, statistical, or research purposes.

These legal requirements must thoroughly be adhered to in order for operations to be considered legal.

## 3. Specification of Purpose

The purpose for collecting or processing the data should justify the collection and processing, and the data subject should be aware of this purpose.

## 4. Compatibility of Further Processing with Purpose of Collection

The data processor has a duty to consider the nature of the data concerned, how it has been collected, the consequences of further processing on the data subject, and the contractual rights and obligations between the data subject and the data processor.

Compatibility is achieved where the data subject consents to the further processing; the data is publicly available or further processing is necessary in accordance with law and for national security purposes; where the data is necessary to prevent or mitigate a serious and imminent threat to public health, safety, the life or health of the data subject or another individual; or, if the data is used for historical, statistical or research while observing the necessary restrictions.

## 5. Quality of Information

The data controller must ensure that the data is complete, accurate, up to date and not misleading, considering the purpose for the collection or processing.

## 6. Openness

In the spirit of openness and transparency, the data subject must be aware of the nature of the data being collected; the name and address of the person collecting it; the purpose for the collection; whether or not the subject is mandated to supply the data by law; the consequences of failure to provide the data; the recipients of the data; the nature or category of the data; and the fact that the subject has the right of access to and the right to request rectification of the data before collection. If the data is collected from a third party, the data subject must still be given the information before or as soon as practicable after the collection.

The Act provides some exceptions to this principle which must be complied with.

## 7. Data Security Safeguards

The data controller must take the necessary steps to secure the integrity of the personal data by adopting measures to prevent unauthorised destruction, damage or loss; and unlawful access to or unauthorised processing of personal data.

The data controller must also observe generally accepted information security practices and procedure, and specific industry or professional rules and regulations.

The relationship between the data controller and data processor should be governed by a written contract which requires the data processor to establish and maintain the confidentiality and security measures necessary to ensure the integrity of the personal data.

As part of the security measures to be put in place, where there are reasonable grounds to believe that the personal data has been accessed or acquired by an unauthorised person, the data controller or processor should notify the Data Protection Commission and the data subject, as soon as is reasonably practicable. The only exception exists where the notification will impede a criminal investigation.

## 8. Data Subject Participation

The data subject is entitled to request a data controller to confirm whether or not the data controller holds personal data

about that data subject, and to give a description of the personal data which is held by the party including data about the identity of a third party or a category of a third party, who has or has had access to the information.

A data subject has a further right to request a data controller to correct or delete personal data about the data subject held by the data controller that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully, or to destroy or delete a record of personal data about the data subject held by the data controller, which the data controller no longer has the authority to retain.

These principles are the bedrock of legal data protection in Ghana, and aligning corporate systems to adequately comply with the requirements is ever critical for today's unconventional and technology-driven workspaces.

# Business Update



## Further Investment in infrastructure and human resources.

The Japan International Cooperation Agency (“JICA”), has signed two agreements with the Ghana Government: a 1 million US dollars grant amount for the improvement of the Tema Motorway Roundabout Phase 2; and a 2.4 million US dollars aid for the Human Resource Development Scholarship (JDS) program for 2021.

## More Credit for Cocoa

Ghana Cocoa Board (“COCOBOD”), JICA and other Development Finance Institutions

(“DFIs”) have signed a 600 million US dollars credit facility. The credit is for the Productivity Enhancement Programmes (“PEPs”), to boost cocoa production in line with the Ghana Beyond Aid agenda.

## The New Food License Scheme

The Food and Drugs Authority (“FDA”) has launched the Progressive Licensing Scheme (“PLS”) for Small-Scale and Cottage-sized Food Processors. PLS is a three-staged licensing regime to support small business units to improve on the safety, quality and wholesomeness of their products.

## Automotive Development in Ghana

The Ghana Heavy Equipment Limited and ZEV; a Chinese global motor firm, have signed an agreement for the assembly of buses and coaches in Ghana under a joint company, Ghana Bus Company Limited. The production of coaches, regulated by the Ghana Automotive Development Policy, will be for local use and export to other African countries under the African Continental Free Trade Area (“AfCFTA”) Agreement.

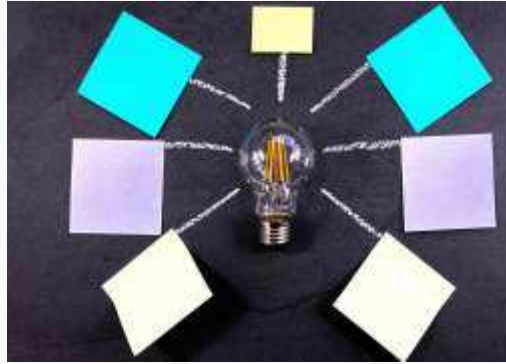
## Enhanced Connectivity for Trade

The Government of Ghana has out-dooed a 4500km railway construction project to connect all major cities and mineral resource sites within the country. The six-phase master plan is estimated to cost 21.5 million US dollars and to be completed over the next 10 years. The project is being financed through the Government’s resources; Build, Operate and Transfer Agreement modules with private investors, as well as through Chinese development bank credit facilities. An ongoing 1400km railway line, under the project, is expected to be completed by the end of 2020.

## EMPLOYERS' CORNER

### Steel production set to rise

The International Finance Corporation ("IFC"), has offered a 12 million US dollars loan to Rider Iron and Steel Ghana Limited to support the company's construction of a steel manufacturing plant. The factory which is set to be completed in 2021 will increase Ghana's production by more than 75% with 240,000 tonnes of steel products annually, from locally sourced scrap steel.



relationship where roles are defined and expectations are set both on the part of the employer and employee. A Work From Home Policy is an invaluable tool for optimizing employee performance, protecting the interests of both employer and employee, as well as clients; and for ensuring minimal disruptions to core operations.

## LEGAL UPDATE



Parliament of Ghana has passed the Land Bill 2019, a long-awaited piece of legislation which consolidates key laws affecting land. The new law among other highlights, introduces an electronic conveyancing system, and Alternative Dispute Resolution to resolve disputes in title registration.

### Tips for a Work From Home Policy

With remote working becoming the norm, it is essential that employers implement effective policies to help guide employee conduct within this new environment.

A Work From Home Policy essentially defines employees' obligations while they continue to perform their contractual duties, albeit remotely.

Elements such as conditions and eligibility for remote working, attendance and working hours, productivity requirements, technology use and support, confidentiality and communication channels are all important to promote a working

# A RESCUE MISSION

The global pandemic, COVID-19, has caused economic disruptions globally. According to Ghana's 2020 mid-year review of the Budget Statement & Economy Policy, the overall expected real GDP growth declined from 6.8% to 0.9%. Despite the crippling effects, it is not all doom and gloom. The Government has added to existing mitigation measures to cushion Ghana's economy.



	Effect	Mitigation Measures
BUSINESSES	Supply-chain disruptions.	2 billion Ghana cedis Guarantee Scheme (flexible loans).
EMPLOYMENT	500,000 job losses.	Retraining Program to improve skills of the unemployed.  National Unemployment Insurance Scheme to provide temporary income support.
HOSPITALITY & TOURISM	4.8 million Ghana cedis revenue loss.	9 million US dollars grant scheme.

# WHO'S WHO?



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**Ghana Association of Restructuring & Insolvency Advisors ("GARIA")**, is the Association of Restructuring and Insolvency professionals in Ghana.

The new Corporate Restructuring and Insolvency Act 2020 (Act 1015) positions GARIA as an authority on matters relating to insolvency of companies. The Association played a vital role in the formulation of Act 1015 and continues to spearhead its implementation.

## **About B & P ASSOCIATES**

B & P ASSOCIATES is a Corporate and Commercial legal practice and consultancy, with an excellent reputation, based in heart of Accra. The Team is highly regarded for its cross-border legal expertise, responsiveness and commitment. We provide business-oriented legal advice across a range of sectors, to both local and international clients. For more information see [www.bpaghana.com](http://www.bpaghana.com) to learn more about what we do.

*This publication may provide a summary of legal issues but is not intended to give specific legal advice. If you require legal advice, please speak to a qualified lawyer, which may include a qualified member of our legal team at B & P ASSOCIATES.*