

## Data Protection Act fees increase as of 1 October 2009

The Data Protection Act 1998 ('the Act') requires all organisations processing personal data to notify the Information Commissioner of their data processing activities, unless they fall within an exemption under the Act. Such exemptions are limited and are likely to apply to only the smallest of businesses.

Failure to notify is a criminal offence; until now, notification cost £35 per year and no distinction was made for the size, turnover or nature of the organisation making the notification. All that has now changed.

### The new fee levels

With effect from 1 October 2009, organisations with a turnover of £25.9 million or more and 250 or more staff will be required to pay an annual fee of £500. The higher fee of £500 will also apply to public authorities with 250 or more staff.

The fee has not changed since 2000; according to an explanatory memorandum issued by the Ministry of Justice at the same time as the (rather catchily titled) *Protection (Notification and Notification Fees) (Amendment) Regulations 2009*, the higher fee payable "reflects the amount of resources invested by the [Information Commissioner] in regulating large data controllers". The extra income generated will also, of course, assist the Information Commissioner in its work generally.

### How do these changes affect businesses?

Businesses need to be aware of this change, and ensure that they are both notifying the Information Commissioner of their data processing activities, and paying the correct amount. A company should need only one notification, but groups should be aware that each company in a group needs its own separate notification; it is sometimes erroneously believed that a group notification can be applied for that will cover all of the companies in the group, but this is incorrect.

However, companies should take care to ensure that they are not paying too much for their notification; in these difficult times, if the turnover or workforce of a company reduces it may be that the company will be entitled to pay only the lesser fee of £35 in a given year. Groups of companies should also carefully look at the turnover levels and number of employees of each individual company in the group to ensure that each company only pays the fee it is required to.

### Contact

For detailed advice on how these regulations might affect your business, please contact:

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