

## Singapore – Data Privacy

Singapore previously did not have an overarching legislation for data protection. However, the Singapore Parliament recently passed the Personal Data Protection Act (Act 26 of 2012) (“**PDPA**”), an act designed to safeguard the collection, use and disclosure of personal data in Singapore. The PDPA complements the existing confidentiality obligations under common law, and other statutory requirements which may apply under sector specific rules on confidentiality of information.

The PDPA data protection regime is one that is based on the key concepts of consent, purpose and reasonableness, and relates to all personal data which identifies an individual, whether electronic or non-electronic. Examples of data which may be considered personal data under the PDPA include video footage, telephone numbers and email addresses.

Broadly speaking, under the PDPA, an organisation will only be able to collect, use or disclose personal data:

- (i) With the individual’s consent, or where the consent has been deemed to be given under the PDPA; and
- (ii) For a reasonable purpose which the organisation has disclosed to the individual prior to the collection of that individual’s personal data.

Under the PDPA, organisations will also have the following obligations in relation to personal data:

- (i) **Accuracy:** Organisations will be required to make a reasonable effort to ensure that personal data collected by or on behalf of the organisation is reasonably accurate and complete.
- (ii) **Protection:** Organisations will be required to protect personal data in their custody or under their control by making reasonable security arrangements to prevent unauthorised access or exposure of the personal data to other similar risks.
- (iii) **Retention:** An organisation must cease to retain its documents containing personal data, or anonymise such documents as soon as it is reasonable to assume that the purpose for which the personal data was collected is no longer served by retention of the document, and retention is not necessary for legal or business purposes.
- (iv) **Access and correction:** Individuals will have the right to request for access to their personal data held by the organisation as well as information about the ways in which their personal data may have been used or disclosed by the organisation within the year prior to the request. Organisations will also be required to correct inaccurate data at the request of the individual where the personal data is about the individual and under the organisation’s control or in their possession.

The provisions of the PDPA relating to the following matters came into effect on 1 January 2013:

- (a) The scope and interpretation of the PDPA;
- (b) The establishment and powers of the Personal Data Protection Commission and the Data Protection Advisory Committee; and
- (c) Other general provisions.

The provisions of the PDPA relating to the data protection rules are expected to come into force in mid-2014, after a transition period of at least 18 months.

### Collection and Processing of Personal Data

#### *Compliance Alternatives*

Under the PDPA, an employer is not required to obtain an employee’s consent for the collection, use and disclosure of their personal data for the purpose of managing or terminating the employee relationship.

Furthermore, where the personal data is collected, used or disclosed by the employer for evaluative purposes – including determining the suitability, eligibility or qualifications of the individual to whom the personal data relates for employment – the employer similarly is exempted from procuring consent for the collection, use and disclosure of the individual’s personal data.

However, notwithstanding these exemptions, the employer is still specifically required to notify an employee of the purposes for which they are collecting,

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	<p>using and disclosing personal data where the collection, use and disclosure is for the purpose of managing or terminating an employee relationship between the organization and that individual.</p> <p>The employer is also required, upon request by the employee, to provide the employee with the business contact information of a person who will be able to answer the individual's questions about the collection, use or disclosure of the personal data on behalf of the organization.</p> <p>Generally under common law confidentiality, employers should not make unauthorized disclosure of information which is of a confidential nature and which was communicated to it in circumstances importing an obligation of confidence.</p>
<b>Transfer of Personal Data</b>	
<i>Compliance Alternatives</i>	Insofar as the transfer of data falls within either one of the two exemptions illustrated above (i.e. managing or terminating the employee relationship or evaluative purposes), the employer will not be required to procure the consent of the employee for the transfer of their personal data.
<i>Other Requirements</i>	The PDPA places an obligation on organisations transferring personal data out of Singapore to ensure that the organisation which the personal data is being transferred to is able to provide standards of protection for the personal data comparable to the protection provided under the PDPA.

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