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SINGAPORE

Amendments to Singapore’ s Personal Data Protection Act (PDPA) 1 February 2021

Introduction

Aimed at strengthening Singapore’s data privacy regime, the Singapore Parliament passed major changes to the Personal Data Protection Act (PDPA) on 2 November 2020. This brings the law into alignment with global standards (eg: GDPR). The following sections are now in force as of 1 February 2021.

Overview of Amendments

1. Data Breaches

New provisions will be introduced, including numerous obligations imposed on organisations. Organisations must now notify the Personal Data Protection Commission (the Commission) and individuals affected if the data breach results in, or is likely to result in, significant harm to the affected individual, or affects 500 or more individuals.

This includes (among other things), statutory protection against the unauthorised collection, use and disclosure of personal data.

Data breaches are considered to cause / likely to cause “significant harm” if the personal data disclosed contains (a) full name (b) full NRIC / identification number and (c) a combination of the following :

- Financial information
- Life or Health insurance information
- Medical information by a medical professional
- Information that leads to the identification of any vulnerable individuals who is the subject of an investigation, or relates to court proceedings that involves a child/minor
- Private key or password is used to authenticate or sign an electronic transaction

In instances where data breaches involve multiple organisations, these organisation may collaborate to asses if the breach is notifiable. Affected individuals must be notified, unless the organisations have :

- Taken remedial action – making it unlikely that the data breach will result in “significant harm”

- Made appropriate technological protection measures beforehand, rendering the data inaccessible
- The Commission or relevant law enforcement agency has prohibited such notifications

2. Deemed Consent

The scope has been expanded to cover contractual necessity and notification where individuals have been notified of the purpose, and given an option to opt-out of the collection and use of the personal data, and have not done so.

Deemed consent for the collection, use or disclosure of personal data may also be inferred from :

- Contractual necessity, i.e. deemed reasonable necessary for the conclusion or execution of a contract – allowing the contracting organisation with the individual to use / disclose information with relevant downstream organisation (eg: eCommerce website)
- Notification – in instances where individuals have been notified of the purpose of the collection, use and disclosure of personal data and have been given a reasonable amount of time to op out (but have not done so).

3. New exceptions to the requirement for consent

The existing list of exceptions to the need to obtain consent will be reformulated under a new set of schedules. Organisations may now collect, use and/or disclose personal data without consent provided there are legitimate interests such as business improvements and for research purposes :

Exceptions to Consent Requirement

Vital interests	Matters affecting the public	the public Public interest	Legitimate interests	Business asset transaction	Business improvement*	Research**
• Necessary for purpose that is clearly in the interest of individual • Necessary to protect vital interest of individual (e.g. responding to emergency, incidents affecting health or safety, contacting next-of-kin or friend of any injured, ill or deceased individual)	• Publicly available • In the national interest • Solely for artistic or literary purposes • Solely for archival or historical purposes • Solely for news activity by a news organisation	• In relation to data obtained from or disclosed to public agency	• Necessary for evaluative purposes • Necessary for any investigation or proceedings • Necessary for the organisation to recover/ pay a debt • Necessary for the provision of legal services • Between a credit bureau and member of a credit bureau for the purpose of preparing a credit report • To confer an interest or a benefit on the individual under a private trust or a benefit plan/ administer that trust or benefit plan • Necessary to provide a service for the personal or domestic purposes of the individual • Document produced in the course of the individual's employment, business or profession • Entering into, managing or terminating an employment relationship or appointment • General legitimate interests of organisation or another person	• Business asset transactions involving the purchase, sale, lease, merger or amalgamation or any other acquisition, disposal or financing of an organisation or part of the organisations/ interest in an organisation/any business asset • Business asset transactions involving the amalgamation of a corporation with one or more related corporations • Business asset transactions involving the transfer or disposal of any of the business or assets of a corporation to a related corporation	• Improving, enhancing or developing new goods or services • Improving, enhancing or developing new methods or processes for operations • Learning or understanding the behaviour and preferences of individuals in relation to providing goods and services • Identifying goods or services that may be suitable for individuals or personalising/ customising such goods or services for individuals **For use without consent by all organisations; for collection and disclosure within a group only*	• Research purpose, including historical or statistical research ***For the use and disclosure of personal data*

For more detailed information on this section, refer to:

PDPA Framework for the Collection, Use and Disclosure of Personal Data

4. Increased financial penalties.

Increased financial penalties, of up to S$1 million1 or 10% of an organisation's annual turnover in Singapore, whichever is higher will apply for breaches of the PDPA

5. New Right of Data Portability

To provide individuals with greater autonomy and control over their personal data, individuals will now be able to request a porting organisation to transmit personal data about the individual to a receiving organisation, provided the personal data exists in an electronic form and there is an ongoing relationship between the individual and the porting organisation.

6. Enhanced Rules on Telemarketing and Spam Control.

Previously, individuals are granted protection from unsolicited messages and phone calls only if they have subscribed to the "Do Not Call" register maintained by the Commission. These existing rules will be strengthened to impose positive duties on senders to ensure and confirm that recipients of unsolicited messages are not on the Do Not Call Register. Organisations also cannot rely on the new exceptions to send direct and unsolicited marketing messages. Senders are only permitted to send messages upon receipt of a valid confirmation that the Singapore telephone number is not listed in the "Do Not Call" register.

Resources & Tools

The PDPA Assessment Tool for Organizations (PATO) is a self-assessment tool that aims to :

- Enable organisations to carry out a self-assessment of their personal data protection policies and practices for compliance with the PDPA.
- Help highlight potential gaps in their personal data protection policies and practices.
- Direct them to the relevant PDPC guides, guidelines and resources.
- Generate a self-assessment report based on the organisation's own inputs.

This self-assessment tool could be found at: PDPA Assessment Tool for Organisations (pdpc.gov.sg)

Organisations may use the results report and action plan to give an update of the organisation's implemented measures. Such documents may also be used to review the organisation's plans to enhance existing data protection measures.

Conclusion

In view of the sweeping changes, organisation need to consider the following :

- Review privacy policies to ensure compliance with the amended PDPA
- Review data breach or incident response plans in accordance with the mandatory data breach notification requirements
- Evaluate if new processes are needed to meet the enhanced right of data portability
- Periodically conduct assessments on the possible adverse effect of the intended collection, use or disclosure of personal data
- Ensure internal trainings are conducted to ensure alignment with the changes under the Personal Data Protection (Amendment) Act 2020.

Source :

Amendments to PDPA as of 2 November 2020

Advisory Guidelines on Key Concepts in the Personal Data Protection Act

Amendments to the PDPA – Simmons + Simmons

Singapore: Amendments to the Personal Data Protection Act 2012 (PDPA) now in force – DLA Piper

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