

Data. Protection. Adding Value.

Data Protection Laws - Singapore



Legislation

The key privacy legislation in Singapore that governs the collection, use and disclosure of personal data by organisations is the Personal Data Protection Act 2012 of Singapore (the “**PDPA**”). There are also various regulations governing the handling of personal data, including but not limited to the Personal Data Protection (Notification of Data Breaches) Regulations 2021, the Personal Data Protection Regulations 2021 and the Personal Data Protection (Do Not Call Registry) Regulations 2013. The PDPA and its regulations are complemented by advisory guidelines issued by the Personal Data Protection Commission of Singapore (the “**PDPC**”). These guidelines are advisory in nature and are not legally binding. However, the guidelines provide insight into how the PDPC may interpret the PDPA and its regulations.

Scope: The PDPA applies to all organisations, whether or not formed or recognised under the law of Singapore, or resident, or having an office or a place of business, in Singapore. Every organisation is required to comply with the PDPA in respect of activities involving personal data in Singapore unless they fall within a category of organisations that is expressly excluded from the application of the PDPA.

Risk Level:
High



Enforcement

The PDPC is empowered to administer and enforce the provisions under the PDPA. Generally, these powers include the following:

- **Reviews:** The PDPC can review an organisation’s response to requests by individuals to access or correct their personal data and either confirm the organisation’s response or issue directions.
- **Investigations:** The PDPC can carry out investigations to determine if an organisation / person is complying with the PDPA, and issue directions or impose penalties for non-compliance.
- **Financial Penalties:** The PDPC can impose financial penalties on organisations for any intentional or negligent contravention of the PDPA. For example, if an organisation intentionally or negligently contravenes Parts 3 to 6A of the PDPA, the maximum financial penalty that can be imposed on that organisation: (a) if that organisation’s annual turnover in Singapore exceeds S\$10 million - 10% of the annual turnover in Singapore of that organisation; or (b) in any other case, S\$1 million.
- **Voluntary Undertakings:** The PDPC can accept voluntary undertakings from an organisation / person where the organisation / person has not complied, is not complying or is likely not to comply with the PDPA. If the organisation / person fails to comply with any undertaking, the PDPC may give any direction to ensure compliance with that undertaking.
- **Alternative Dispute Resolution:** The PDPC can direct complainants and organisations to resolve any complaints through mediation or other modes of dispute settlement.

Data Processing

The PDPA generally requires that an organisation obtain the consent of an individual before collecting, using or disclosing his/her personal data for a purpose, unless such collection, use or disclosure without the individual’s consent is required or authorised under the PDPA or any other written law. Such consent from an individual must be validly obtained and may be either expressly given or deemed to have been given. The First and Second Schedules of the PDPA provide for specific situations where personal data can be collected, used or disclosed without consent, which are broadly categorised as follows:

- vital interests of individuals
- matters affecting public
- legitimate interests of organisations
- business asset transactions
- business improvement purposes
- research

Supervisory Authority

The PDPC was established in January 2013 to administer and enforce the PDPA and is the key regulatory authority for matters relating to personal data in Singapore and represents the Singapore Government internationally on data protection related issues.

Singapore Data Protection Obligations

Subject to exceptions or limitations specified in the PDPA, the PDPA generally contains the following main obligations which organisations are required to comply with if they undertake activities relating to the collection, use and disclosure of personal data.

- **Consent Obligation:** Obtain the consent of the individual before collecting, using or disclosing his/her personal data for a purpose.
- **Purpose Limitation Obligation:** Collection, use or disclosure of personal data must only be for purposes that a reasonable person would consider appropriate in the circumstances and, if applicable, have been notified to the individual concerned.
- **Notification Obligation:** Notify the individual of the purpose(s) for which it intends to collect, use or disclose the individual’s personal data on or before such collection, use or disclosure.
- **Access and Correction Obligations:** Allow access to and correction of personal data upon the individual’s request.
- **Accuracy Obligation:** Make a reasonable effort to ensure that personal data collected by or on behalf of the organisation is accurate and complete if the personal data is likely to be used by the organisation to make a decision that affects the individual concerned or disclosed by the organisation to another organisation.
- **Protection Obligation:** Protect personal data in its possession or under its control by making reasonable security arrangements.
- **Retention Limitation Obligation:** Cease to retain documents containing personal data, or remove the means by which the personal data can be associated with particular individuals as soon as it is reasonable to assume that (i) the purpose for which the personal data was collected is no longer being served by retention of the personal data; and (ii) retention is no longer necessary for legal or business purposes.
- **Transfer Limitation Obligation:** Must not transfer personal data to a country or territory outside Singapore except in accordance with the requirements prescribed under the PDPA.
- **Data Breach Notification Obligation:** Assess whether a data breach is notifiable and notify the affected individuals and/or the PDPC where it is assessed to be notifiable.
- **Accountability Obligation:** Implement the necessary policies and procedures in order to meet its obligations under the PDPA and shall make information about its policies and procedures publicly available.

Transparency Requirements

The PDPA provides that an organisation must notify an individual of the purpose(s) for which it intends to collect, use or disclose his/her personal data on or before such collection, use or disclosure. The PDPA also requires an organisation to develop and implement policies and practices that are necessary for the organisation to meet its obligations under the PDPA, communicate such policies and practices to its employees, and make information about its policies and practices available on request.

Individual Rights

Generally, individuals have the following rights in respect of their personal data:

- **Right of access:** On request, an organisation must provide the individual with his/her personal data in the organisation's possession or under its control, and information about the ways in which the personal data has been or may have been used or disclosed within one year before the date of the request.
- **Right of correction:** An individual may request an organisation to correct an error or omission in his/her personal data that is in the possession or under the control of the organisation.
- **Right to withdraw consent:** An individual may, upon giving reasonable notice to an organisation, withdraw his/her consent given to the organisation for the collection, use or disclosure of his/her personal data for any purpose. Upon withdrawal of consent, organisations should inform the individual of the likely consequences of the withdrawal, and cease collecting, using or disclosing the personal data unless such collection, use or disclosure of the personal data without consent is required or authorised under the PDPA or other written law.
- **Right to object to marketing:** In addition to the right to withdraw consent, an individual who does not wish to receive specified telemarketing calls and messages addressed to his/her Singapore telephone number may register his/her Singapore telephone number on one or more of the DNC registers (namely, the No Voice Call Register, the No Text Message Register and the No Fax Message Register).
- **Right to make a complaint:** An individual may lodge a complaint with the PDPC in respect of an organisation's breach of any of the provisions under the PDPA.
- **Right of private action:** Individuals who have suffered loss or damage directly as a result of a contravention by the organisation of the provisions of the PDPA has a right to commence a private civil action.

Upcoming reforms

The Personal Data Protection (Amendment) Act 2020 has introduced a data portability obligation which has yet to take effect. The provisions relating to data portability will only come into force at a later date.

Generally, the data portability obligation provides that at the request of an individual, organisations are required to transmit the individual's data that is in the organisation's possession or under its control, to another organisation in a commonly used machine-readable format.

Other Business Obligations

It is a requirement for organisations to appoint at least one individual to oversee data protection responsibilities and ensure the organisation's compliance with the PDPA ("DPO"). The business contact information of at least one of the DPO should be made available to the public either through the website of the Accounting and Corporate Regulatory Authority of Singapore or in a readily accessible part of the organisation's official website.

Cross-Border Transfers

An organisation must not transfer any personal data to a country or territory outside Singapore except in accordance with requirements prescribed under the PDPA to ensure that organisations provide a standard of protection to personal data so transferred that is comparable to the protection under the PDPA (the "Transfer Limitation Obligation").

In particular, under the Personal Data Protection Regulations 2021 (the "PDP Regulations"), the transferring organisation must, before transferring the personal data outside of Singapore, take appropriate steps to ensure that the overseas recipient is bound by legally enforceable obligations to provide the transferred personal data with a standard of protection comparable to that under the PDPA.

For completeness, under the PDP Regulations, a transferring organisation is taken to have satisfied the Transfer Limitation Obligation in certain circumstances, such as where the individual has consented to the transfer of his/her personal data, where the personal data is publicly available in Singapore or where the personal data is data in transit.

Security & Data Breaches

Security Requirements: Under the PDPA, organisations must make reasonable security arrangements to prevent (i) unauthorised access, collection, use, disclosure, copying, modification or disposal, or similar risks; and (ii) the loss of any storage medium or device on which personal data is stored.

Data Breaches: There is a mandatory data breach notification regime under the PDPA. Organisations are generally required to notify the PDPC and/or each affected individual of a "notifiable data breach".

A data breach is a "notifiable data breach" if it:

- results in, or is likely to result in, significant harm to an affected individual. A data breach is deemed to result in significant harm to an individual if it relates to prescribed types of data; or
- is, or is likely to be, of a significant scale (i.e. the data breach involves personal data of 500 or more individuals).

Let's connect to discuss how we can help:



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