



Personal Data Protection Act:

PERSONAL DATA PROTECTION COMMITTEE HAS BEEN APPOINTED

As the Personal Data Protection Act B.E. 2562 ("PDPA") will soon come to full effect on 1 June 2022, the Prime Minister's Office has officially announced the appointment of the Personal Data Protection Committee ("PDPC") earlier this year on 18 January 2022.

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The 10 appointed members of PDPC consist of individuals with expertise and experiences in personal data protection; consumer protection; information, technology, and communications; social science; law; health care; finance; and other fields beneficial and related to PDPA. They will be on duty to lead Thailand towards the personal data protection reform. The PDPC will not only do so by remodeling the society's accustomed behavior and practice towards the involvement of personal data but also by setting clearer standards and grounds following the PDPA enforcement. With the PDPC, it evidences that Thailand has moved closer towards to having a data privacy in accordance with the international standards.

What are duties and power of the PDPC?

According to Section 16 of the PDPA, influential duties and power of the include: -

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- 1) To determine measures and guidelines of the operation in relation to personal data protection in order to comply with PDPA;
- 2) To issue notifications or rules for the execution of PDPA;
- 3) To announce and establish guidance for the protection of personal data as a guideline that the data controller or data processor shall comply with;
- 4) To recommend the Cabinet on the enactment or revision of the existing laws or rules applicable to the protection of personal data; and
- 5) To interpret and render rulings with respect to the issues arising from the enforcement of PDPA.

From the above, establishing the PDPC would uplift the practicality of PDPA implementation in Thailand. As the PDPC has the authority to issue sub-laws and guidelines to extend what are now ambiguous in the PDPA, the business operators that engage with the personal data should keep an eye on the upcoming updates and be prepared to adapt into such potential updates.

What will the PDPC bring?

It is expected that the PDPC will issue sub-laws to enclose details, practical guidance or address unclear issues in the PDPA, as there are some provisions under the PDPA that are pending for the PDPC's clarifications and directions. Some of the provisions that are subject to further elaboration by the PDPC are as follows: -

- Section 19 – To prescribe a specific consent form for the data controller to use when requesting for consent from the data subject.
- Section 26 – To:
 - a) expand the types of personal data that are considered as a sensitive personal data; and
 - b) prescribe rules to control and govern the collection of sensitive personal data relating to criminal record.
- Section 28 and 29 – To decide whether the destination country or the international organization that the personal data is transferred to has an adequate personal data protection standard and to announce and establish criteria for providing protection of personal data: -
 - a) sent or transferred to a foreign country; and
 - b) sent or transferred to the data controller's or data processor's affiliates or groups located in a foreign country.
- Section 30 – To prescribe the rules: -
 - a) for data subject's right to access and to request a copy of his/her personal data; and
 - b) to extend the 30 days timeframe for the data controller to fulfill the data; and subject's request to access and obtain the personal data.
- Section 33 and 34 – To prescribe and announce the rules to govern the erasure of personal data, destruction of personal data, anonymization of personal data, and suspension of the use of personal data.
- Section 37 – To:
 - a) specify and announce a minimum standard for the security measures that the data controller must provide to prevent unauthorized or

- unlawful loss, access to, use, alteration, correction, or disclosure of personal data collected from the data subject; and
- b) prescribe rules and procedures for the notification in case where the breach of personal data take place as well as exemptions to the requirements of such notification.
 - Section 39 and 40 – To prescribe rules to distinguish data controller and data processor that are small organizations in which the records of personal data processing activities are not required.
 - Section 41 – To prescribe and announce the circumstances in which the data controller and data processor must designate a data protection officer as well as the data protection officer's qualifications.

Deloitte's observation

The appointment of the PDPC has been delayed, corresponding with the extension of PDPA enforcement date, the Thai business operators can therefore have more time to prepare themselves for the PDPA implementation to avoid possible liabilities for PDPA infringements.

With the PDPC being appointed, enforcing the PDPA would be more promising due to a better clarity on the enforcement structure and a clearer ground for this set of rules. Appointment of the PDPC earlier this year are the country's important milestone in having a concrete committee to enforce the PDPA. We therefore encourage all business operators to start assessing the on-going personal data processing activities in the business operations in order to identify the current level of PDPA compliance and potential risks of PDPA infringement that the company has and to ensure the company's readiness of PDPA compliance before the enforcement takes place.

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