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PERSONAL DATA PROTECTION

The Malaysian Personal Data Protection Act 2010

In June 2010, the Malaysian Government gazetted the Personal Data Protection Act 2010 (PDPA) with the aim of regulating the collection, storage, processing and use of any personal data. It is not intended to obstruct the legitimate use of information but strives to ensure that it is used fairly via its principles.

For individuals, PDPA 2010 aims to provide protection and control over the way personal information is collected, stored and used.

In essence, this Act applies to any person who processes or has control over or authorizes the processing of any personal data in respect to commercial transactions. However, it is not applicable to federal and state governments as well as personal data that are processed outside of Malaysia.

Data Protection Principles (7 Principles)

Laid in the main body of the Act is the prescription of data protection principles from which stems all the rights, duties and liabilities of each data user and data subject.

General principle

Personal data cannot be processed without the consent of data subject

Exemptions:

- for the performance of a contract to which the data subject is a party
- at the request of the data subject with a view to entering into a contract
- to protect the vital interest of the data subject

Notice and consent

A data user shall inform the data subject that:

- the personal data of the data subject is being processed and provide a description of the personal data and purpose of collection
- the right of the data subject to request access

Disclosure

No personal data shall, without the consent of the data subject, be disclosed for other purposes.

Security

A data user shall take adequate steps to protect personal data from any loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction.

Retention

Personal data processed for any purpose shall not be kept longer than necessary for the fulfillment of that purpose.

Integrity

The data user shall take reasonable steps to ensure that the personal data collected is accurate, complete, not misleading and kept up-to-date.

Access principle

All data subjects shall be given access to their personal data and will be able to correct that personal data if it is inaccurate, incomplete, misleading or not up-to-date.