

# Thailand's Personal Data Protection Act (PDPA)

## Importance

<b>Why the PDPA matter?</b>	<p><b>Liabilities under the PDPA</b></p> <ul style="list-style-type: none"> <li>• Fine up to THB 5 million</li> <li>• Imprisonment up to 1 year</li> <li>• Compensation for actual damages plus punitive damages up to twice the amount of the actual damages</li> <li>• Directors and other responsible persons could also be liable if the offender is a juristic person</li> </ul>
<b>Deadline for compliance</b>	<b>Within 27 May 2020</b>
<b>Supervisory authority</b>	Data Protection Committee, Ministry of Digital Economy and Society

## Scope of applicability

<b>Who may will have to comply?</b>	<ul style="list-style-type: none"> <li>• All organizations established in Thailand</li> <li>• Organizations outside of Thailand which collect, use, disclose and/ or transfer personal data of individuals in Thailand.</li> </ul>
<b>What type of data is protected?</b>	<ul style="list-style-type: none"> <li>• <b>Personal data</b> – any data that could, directly or indirectly, identify an alive person, including customers, employees, suppliers, business partners, etc.</li> <li>• <b>Sensitive personal data</b> – e.g. racial or ethnic origin, political opinions, religious beliefs, sexual orientation, criminal records, health data, genetics/ biological data, etc.</li> </ul>

## PDPA key compliance

<b>Certain key protection methods</b>	<ul style="list-style-type: none"> <li>• <b>Consent</b> must be obtained for any collection, use, disclosure and/or transfer of personal data, <b>except</b> others as permitted by laws.</li> <li>• Consent (if required) must be freely given, specific, informed and unambiguous, and can be withdrawn by the personal data owner.</li> <li>• <b>Privacy notice</b> at the time of collection, e.g. purpose(s) of the collection, any potential disclosure/transfer of personal data, etc.</li> </ul>
<b>Use and disclosure</b>	<ul style="list-style-type: none"> <li>• Use and disclosure must be in line with the purpose(s) as consented by the owner.</li> <li>• Transfer of personal data to foreign country must comply with the PDPA's requirements.</li> </ul>
<b>Other requirements</b>	<ul style="list-style-type: none"> <li>• To ensure the persons' rights under the PDPA, including the right to data portability and the right to erasure.</li> <li>• To protect personal data with appropriate security measures.</li> <li>• <b>Data Protection Officer</b> could be required for organizations that process personal data at a large scale, or process sensitive personal data.</li> <li>• A registry documenting all personal data processing activities must be maintained.</li> <li>• To notify data breaches to the Data Protection Committee within 72 hours, along with data subjects in case of high risks for them.</li> <li>• Data controllers must ensure that sub-contractors/processors comply with the PDPA.</li> </ul>
<b>How to start?</b>	<ul style="list-style-type: none"> <li>• Review the legal basis for your data processing activities</li> <li>• Ensure that the consent and privacy notice meet the PDPA requirements</li> <li>• Ensure that your contracts with vendors/suppliers/third parties consist of adequate personal data protection provisions</li> <li>• Have appropriate data governance policies and training</li> </ul>

\* KPMG Thailand is a member firm of the KPMG network in the EU which has extensive experience in GDPR.

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