

Is Your Organization Ready for the Personal Data Protection Act Coming Into Full Effect on 1 June 2022?

Siam Premier International Law Office Limited (“**Siam Premier**”) is poised to enter the next stage of the digital era with our clients.

The Personal Data Protection Act B.E. 2562 (2019) (“**PDPA**”), which will be fully active on 1 June, sets forth a series of actions that businesses must take concerning their use of customer data, in order to avoid penalties including fines of up to 1 Million Baht and imprisonment of up to 1 year. The PDPA was first introduced on May 2019. It provided an amnesty period but eventually on 1 June 2022 will be out in full effect.

Our society is heading into an information economy where data itself is gaining increased value as a commodity. Businesses can use data collected from their customers and other third-parties to enhance business activities, such as by using big data aggregation to generic strategic insights and guide decision-making processes.

With that increase in the value of data and information comes increased attention from legislative bodies, specifically the Ministry of Digital Economy, which created the PDPA with the purpose of safeguarding personal data from being stored or used by the “data controller” without prior notice and/or consent from the “data subject”.

Here, “personal data” means any information relating to a person, both a natural and a juristic person, which enables the identification of a person, whether directly or indirectly. Moreover, “data controller” is a person or organization that decides what personal data is processed and for what. Finally, the “data subject” refers to the owner of personal data whose personal data can point to the person's identity.

However, the purpose and goals come at the cost of increased burdens and expectations on businesses which fall under the scope of the PDPA. This includes any business in Thailand, including foreign businesses which engage in commercial transactions with businesses in Thailand that collect personal data.

There are many steps which a business covered by the PDPA must take in order to ensure it is compliant with the PDPA when it goes into full effect. First, businesses should determine whether the PDPA applies to their organization and activities. Most likely the PDPA will indeed apply given its very wide scope. In such case the business should consider (among other things):

1. Mapping its data flow to articulate how it collects and uses data
2. Providing an opportunity to the existing data subjects to object to continuous use of their Personal Data and ensure that such personal data is used only for its original purpose
3. Providing a privacy notice to inform the data subjects if it had not already done so already
4. Regarding future collection and use of Personal Data, identifying the legal basis for collection, usage or disclosure in order to determine if consent from the data subjects is required. (This involves providing a privacy notice and request for consent to parties from which the business will be receiving Personal Data).
5. Generating employee buy-in and contribution.

Compliance with the PDPA is an enterprise-wide endeavor, the data protection officer, or the equivalent personnel leading this initiative, is unlikely to succeed without the support of other departments. As such, the data protection officer should communicate the importance of following these steps to other employees and train them to comply.

Moreover, the challenge is not only in identifying these compliance issues and resolving them, but also executing the compliance strategy in such a way that does not impede business workflow.

In order to best assist businesses to perform these actions, Siam Premier is proud to announce the formation of our new Data Privacy Practice Group. This practice group brings together lawyers with expertise in data protection and technology, who have been helping companies prepare for the PDPA since its announcement in 2019 as well as in advising on general data privacy issues such as the Official Information Act B.E. 2540 (1997), intersecting areas of laws such as litigation, including civil claims, and general commercial matters. We are able to assist companies with:

- Preparing a data mapping questionnaire on the topic of data collection and data processing for the client's completion, and based upon the client's answers, providing advice identifying specific data management practices which may be considered breach of legal standards regulated under the PDPA and propose measures to be applied by each to increase compliance
- Drafting an internal Data Protection Policy regarding topics including data collection and data processing procedure, data retention period, practice of data transfer, data erasure, and data security measures
- Preparing a Privacy Notice, Cookies Policy, Consent Form and Data Subject Request Forms
- Reviewing and revising client's documents across various business functions (Human Resources, Marketing and Accounting, etc.) to ensure PDPA compliance
- Suggesting to foreign companies involved in commercial transactions in Thailand as to what revisions to make to existing data privacy policy to ensure local compliance
- Providing customer-specific training service for the implementation of PDPA compliance and appropriate management of personal data, including creating a training manual

While this process may appear daunting and tiresome, an experienced legal team can guide you through it without letting these compliance issues impede your business operations.

If your business needs advice or assistance in completing the requirements under the PDPA by 1 June 2022, please contact our Partner, Rawat Chomsri for further advice or click [here](#) for more information.

For more information, please contact:

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