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Legal Updates on Personal Data Summary of the Guideline on the Appointment of Data Protection Officer

Introduction



Haldan Apekwan Seng 50450 Kalokwamseria

/5/04/50/sixuala Lumpur

Consultant Consultant The long-anticipated amendments to the Personal Data Protection Act 2010 ("PDPA 2010") that gazetted in October last year, introduced the requirement for data controllers and data processors to appoint 1 or more data protection officers ("DPO") under section 12A of the PDPA 2010 (amongst other amendments). came into force on 1 January 2025. Kenny H. K. Poan Yours faithfully, James C. C. Wong

for Jeff Leong, Poon & Wong Following the gazettement, the Personal Data Protection Department ("JPDP") announced in November 2024 that the Personal Data Protection Commissioner ("Commissioner") would release guidelines and a standard by events 2025 on Lee Seen Vin compliance with the new requirements introduced by the amendments. Nancy S.F. Kyeh [name of Partner/Lawyer]

E-mail: [email address of Partner/Lawyer] The Commissioner has now on 25 February 2025, issued a circular ("Circular No. 1/2025") as wettain guideline on the appointment of DPO ("DPO Guideline"), and we hope to provide a meaningful and concise summary below.

Chan Yee Choi Jesy P.G. Ooi Jesy P.G. Ooi John Stanley Isaacs John Stanley Isaacs Khor W.S. Cheong RichardHawCheong

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Defined Terms

Righquedtave Throughout this summary, we will be using certain defined terms from the PDPA 2010 which are explained below for your ease of reference. KeneeegPShihUMen

: means anyone other than a data processor, who processes
controls or authorises the processing of personal data. 는영상형 세n. Ee Eolity J. Sin ^{Chin}
: means anyone who processes personal data only on behalf of a data for the second sec
does not process the personal data for their own purposes. An design of a data
controller is not considered a data processor.
편해운유남부발. Liw Mikr호텔 전체 Yap Stores P. Livy
· The and the individual who is the subject of the personal data, ^B 我的意思 _{hh} liw 圳城和y.\$eh Teh
: means any data from which a person can be identified; DaphierEntitiee
Offices M.W.Kok
: means personal data containing information on a data subject's physical or mental
health, political opinions, religious beliefs, commission of offences and biometric data
commission of offences and biometric data.

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Requirement to Appoint a DPO

Data controllers and data processors are required to appoint 1 or more DPOs if their processing of personal data Contact Details involves: Your Ref : Please advise

Advocates & Solicitors

Our Ref

- the personal data of more than 20,000 data subjects;
- [date) e sensitive personal data of more than 10,000 data subjects; or
- activities that require regular and systematic monitoring of personal data. [insert content]

Some examples of regular and systematic monitoring include:

- online tracking and profiling for behavioural advertising;
- operating of telecommunications networks;
- monitoring of wellness, fitness and health data through wearable devices;
- operating of CCTV:
- connected devices such as smart cars and home automation systems.

Requirerseathon Notify Appointment of DPO and Register DPO for Jeff Leong, Poon & Wong

Within 21 days from the date of appointment, the data controller or data processor must register their appointment DPO and submit their contact information to the Commissioner through the Personal Data Protection System (Sistem Perlitering of Bath Perlitering of the DPO or their contact information must be promptly updated within 94 days from the effective date of such change. Associates

The data controller or data processor must maintain and retain records of the appointed DPCP to Stemonstrate Jesy P.G. Ooi John Stanley Isaacs compliance. John Stanley Isaacs

Requirement to Publish DPO Contact Details

The DPO must have a dedicated official business e-mail address, which account must be actively the and maintained. This email address should be distinct and separate from personal email and official busines work e-mail addresses. Loo Lee Lin T. Fe

The contact information of the DPO should be published on the official website and other official mental (e.g., social media platforms, telephone directories, etc.), in the privacy notices and in the security policies and directories and directo controller or data processor. Meera Michele Nainar

Expertise and Qualifications of DPO

Currently, there are no minimum professional qualifications required for DPOs. However, data controllers and data processors must ensure that the DPO is able to adequately carry out their tasks. This would include determining appropriate qualifications, skills and expertise required for the processing being carried out, the complexity scale and Cherry S.Y. Cheah sensitivity of the data processed, and the security required for the data processed.

Lee Seng Yau Cherry S.Y. Chech Yuki M.Y. Chong Lee Seng You A Member of Yuki M.Y. Chong Interlex Group *Disclaimer: This update is for informational purposes only and does not constitute legal advice. For assistance with legal matters, r nieriex Groub

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DPOs should also be able to demonstrate a sound level of the following:

- knowledge of the PDPA and requirements of data protection laws of Malaysia as well as other countries, if contact Details
- relevant: Your Ref : Please advise
 Our Ref : Please advise
 Our Ref estanding of the data controller or data processor's business operations and the data processing operations being carried out;
- [datenderstanding of information technology and data security;
- personal qualities such as integrity, understanding of corporate governance and high professional 2ethics; and [insert content]
- [insert content]
 ability to promote data protection culture within the organisation.

Www.jlpw.com.my DPOs may also be required to undergo courses or training programmes by the Commissioner and if so required, data controllers and data processors must ensure that their DPOs attend such courses and programmes 8.30 am - 5.30 pm 8.30 am - 5.30 pm 8.30 am - 5.30 pm

DPOs are required to be resident in Malaysia or otherwise easily contactable and should be proficient in the national language and English.

Prittiners Jeff P. L. Leeong Keenny H. K. Poon

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Appointment of Employee as DPO

Yours faithfully,

A new employee may be appointed as DPO in a dual of the However, if a DPO executes other official duties and responsibilities or performs additional tasks as part of the However, if controller or data processor must ensure that these other tasks and functions do not cause a conflict first erest.

[name of Partner/Lawyer]

As an example, all company of Head of Marketing may not be suitable to play a dual role as the company of Head of Marketing may not be suitable to play a dual role as the company of Head of Marketing activities that require the processing of the source o

Depending on the data controller or data processor's function, structure and size, the position of by may be a parttime or full-time position. The DPO should have direct report access to senior management of the data controller or data processor.

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Emily J. S. Chin Loo Lee Lin Cheng Mun Mun Emily J. S. Chin Yeo Shu Pin Cheng Mun Mun Meera Michele Nainar

If the position of DPO becomes vacant, the data controller or data processor should appoint an interim officier as soon as possible to monitor the official email account. The data controller or data processor must also appoint or hire a replacement within a reasonable time frame.

Outsourcing of DPO

If a DPO is appointed through outsourced services, it is recommended that the service contract is the minimum term of 2 years. The service contract should also comprehensively describe the duties and obligations of the DPO.

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Yeo Shu Pin Tan Poh Hui

The data controller or data processor must ensure that there is a designated person-in-charge that they may diaise with, and such lead contact should be specified in the service contract.

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Roles and Responsibilities of DPO

Data controllers and data processors should ensure the timely involvement of the DPO in all matters related to personal data protection, starting from policy formulation to collection, storage, deletion and destruction of personal data. To contract personal data processors may develop guidelines and these guidelines should be disseminated with the orgative field.

[*insert content*] DPOs have the following core responsibilities:

To the data controller or data processor

- supporting the data controller or data processor in complying with the PDPA 2010 and the protection laws, including staying informed of data processing risks affecting the data controller or data processor;
- monitoring the data controller or data processor's compliance with personal data protection requirements; and
- ensuring proper data breach and security incident management;

To dataussibatefully,

• for Jeff Jeang acting as a clinator and point of contact between data subjects and the data controller and subjects and the data controller and subjects and their rights; and Anne W. Y. Were

To the comphile sidner/Lawyer]

• E-mail: [email.address of Bartner/lawyer] point of reference between the data controller or data spracessor and the Commissioner.

The full Circular 1/2025 and the DPO Guideline are available on the official website of the JPDP

RichardHawCheong

Prepared by Arite BLE. Linon (Partner)

Kenegeg Shih Wen

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