

Public Consultation for the PDP (Amendment) Bill

Submission by:

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Summary of Major Points:

1. Can “days” be defined as “business days” for clarity?
2. Can “storage medium or device” be clarified – does it include physical storage means like papers and files?
3. Can the prescribed class of personal data deemed to result in significant harm be provided in detail?
4. Can the intent of offences relating to unauthorised disclosure be clarified?

Comments:

1. Under paragraph 20 of the Public Consultation, we note that PDPC intends to prescribe notification within 3 calendar days. Our suggestion would be whether the terminology can be amended from “calendar days” to “business days”, as it may be more difficult to comply if there are intervening non-working days for “calendar days”.

We note that there is no mention of the word “calendar days” in Section 26D of the PDPA (Amendment) Bill.

2. In Section 26A, “data breach” is defined. “storage medium or device” is mentioned. Is this phrase intended to include physical storage (e.g. paper documents or paper files), considering that many organisations are still paper-based?
3. On the notification criteria, there is usually debate on what constitute “significant harm”. We note that in Section 26B, it is indicated that “a data breach is deemed to be likely to result in significant harm to an individual if the data breach affects any prescribed class of personal data relating to the individual.”

This prescribed class of personal data will be welcoming, so as to remove ambiguity and internal debate. Where will the prescription be found?

4. Under the proposed new Sections 35B and 35C, we wish to clarify the intent of the offences for unauthorised disclosure of personal data and improper use of personal data. Concerns have been voiced over whether an oversight by an employee and/or a typographical error leading to unauthorised disclosure of personal data, will cause the said employee to be personally liable, under the proposed new sections.

Will employers be allowed to purchase insurance cover for such oversights on the part of their employees?

Do employers have a legal obligation to report such behaviours/incidents to the relevant authority?

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