PERSONAL DATA PROTECTION IN THAILAND:
ARE YOU WELL AWARE OF YOUR OBLIGATIONS?

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# New Regulatory Framework in Thailand

**Personal Data Protection Act, B.E. 2562 (2019)**

- Prepared by the Ministry of Digital Economy and Society.
- Published in the Royal Gazette on 27 May 2019.
- Reflecting global trends in personal data protection (e.g. EU GDPR).
- One year grace period for enforcement – effective from 27 May 2020.
HOW COULD YOUR BUSINESS BE SUBJECT TO THE PDPA?

Ask yourself the right questions

- Do I process **personal data**? (Data Controllers vs. Data Processors).

- Do I **offer goods or services to individuals** located in the Kingdom of Thailand?

- Do I **monitor the behavior of individuals** located in the Kingdom of Thailand?
EXEMPTIONS UNDER THE PDPA

- Private purposes
- Government agencies related to national security, money laundering and cybersecurity
- Medias subject to ethical standards and public interest purposes
- Members of Parliament and Judiciary
- Credit Bureau
**CASE STUDY: SINGAPORE HOSPITALY GROUP**

- **Hotel located in Singapore**
- **Promotions and special offers sent by e-mail to all customers in the database**
- **Collection of personal data when customers book a room online or in person**
- **Customers — includes individuals located in Thailand**
- **Headquarters and hotels are situated in Singapore**
- **Customers are residents and citizens located all around the world, including Thailand**
- **Collection of personal data such as names, email addresses, payment details**
This hospitality group falls within the scope of the PDPA as it does offer and promote its services to individuals located within Thailand.
WHY SHOULD YOU BE CONCERNED?

Compliance
You could face administrative fines of up to THB 5 million and criminal fines of up to THB 1 million.

Reputational Damage
Consider the effects of recent data privacy related scandals.

Consumer trust
Protecting your consumers’ interest may result in new business opportunities.
**PROCESSING PERSONAL DATA: OBTAINING CONSENT OR NOT?**

<table>
<thead>
<tr>
<th>SEEKING CONSENT IS KEY  (Principle)</th>
<th>EXCEPT WHEN IT IS NOT  (Exceptions)</th>
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<tbody>
<tr>
<td>• Prior to or at the time of collection of the data</td>
<td>• Historical purposes, research or statistics</td>
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<tr>
<td>• Request in writing or via electronic means, in clear and plain language and intelligible and accessible form</td>
<td>• Preventing or eliminating danger to the life, body or health of an individual</td>
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<tr>
<td>• Information on specific objectives and on the processing must be provided</td>
<td>• Compliance with applicable laws and regulations</td>
</tr>
<tr>
<td><em>Consent from minors are subject to specific provisions.</em></td>
<td>• Performance of a contract to which the individual is a party</td>
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<td></td>
<td>• Compliance with a legal obligation relating to public interest to which the Controller is subject</td>
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<td></td>
<td>• Lawful interests, but only to the extent that the individual’s fundamental rights are not overridden by such interests</td>
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**WHAT ARE YOUR DUTIES UNDER THE PDPA?**

<table>
<thead>
<tr>
<th>Providing a minimum level of information, including:</th>
<th>Ensuring their rights:</th>
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<tr>
<td>• Identity and contact details of your company</td>
<td>• Accessibility</td>
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<tr>
<td>• Purposes of the processing</td>
<td>• Data portability</td>
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<td>• Legal basis for doing so</td>
<td>• Objection</td>
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<td>• Retention periods for data to be stored</td>
<td>• Suspension</td>
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<tr>
<td>• How their rights can be exercised</td>
<td>• Rectification</td>
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<td></td>
<td>• Right to be forgotten</td>
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<td>• Consent withdrawal</td>
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WHAT ARE **YOUR DUTIES UNDER THE PDPA?** (cont’d)

<table>
<thead>
<tr>
<th>WITHIN YOUR OWN BUSINESS</th>
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<tr>
<td><strong>Implementing appropriate security measures</strong> to prevent loss, unauthorized access, alteration or disclosure of personal data</td>
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<tr>
<td><strong>Notifying any data breach or violation</strong> within 72 hours to the Office</td>
</tr>
</tbody>
</table>
WHAT ARE **YOUR DUTIES** UNDER THE PDPA? (cont’d)

<table>
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<tr>
<th>WITH REGARD TO THIRD PARTIES</th>
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**Disclosure to third parties:**
- Ensuring that a third party to whom personal data are disclosed (e.g. data processors) shall not use nor disclose such data wrongfully

**Transfer overseas:**
- Transferring personal data outside Thailand to third-country or organization having sufficient personal data protection standards only
- Exceptions may apply
THANK YOU!

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