

CONSULTATION PAPER ON THE DRAFT PERSONAL DATA PROTECTION ORDER FOR THE PRIVATE SECTOR IN BRUNEI DARUSSALAM

- i. Clause 3.7 – Data Intermediaries/Processors; Clause 4.13 – The Transfer Limitation Obligation
 - a. We note the Transfer Limitation Obligation such as storing customer database using cloud solutions which are hosted outside of Brunei for e.g using Amazon Web Services. Would organisations that offer such services be considered as Data Intermediaries within the meaning of the PDPO?
- ii. Clause 4.6 - The Consent Obligation
 - a. We note that the manner in which consent may be given is not prescribed. Nevertheless, we would like to ask whether there is any case law which provides any guidance in this area, including in how clear would we need to be when requesting customer’s consent.
 - b. How wide is the scope regarding our transparency towards customers about the purposes for which personal data is processed?
- iii. Clause 4.7 – The Purpose Limitation Obligation
 - a. We assume that providing information to enforcement authorities would be considered as a “reasonable purpose”.
 - b. We would like to ask if there are any examples of case law of what a “reasonable person” would consider appropriate with regard to the collection, use or disclosure of data – so as to provide some guidance to organisations.
- iv. Clause 4.10 – The Accuracy Obligation
 - a. We suggest that the burden of accuracy should lie with the person providing the information as opposed to the organisation.
- v. Clause 4.12 - The Retention Limitation Obligation
 - a. Would retaining personal data for the internal use of market and segmentation analysis be considered as a valid business reason?
 - b. Hard copy documents contain personal data are required to be kept at least 7 years for business purposes either the person has terminated their services or not.
 - c. Soft copy of the personal data will be stored in the system for both active and terminated services.
- vi. Clause 4.14 - The Data Breach Notification Obligation
 - a. We are of the view that notifying no later than 3 calendar days is too short. We suggest 7 calendar days would give enough time for assessments and notification to take place.
- vii. Clause 6.4 - Power to Issue Directions
 - a. 6.4.1 (a) & (b) To note that the destroying of personal data collected in contravention of the PDPO will lead to the deactivation of the person’s active subscriptions.

- viii. Clause 6.6.1 – Right of Private Action
 - a. Would an organization have a right of private action as well?

- ix. Clause 8.7 - Sending of Specified Message
 - a. Does this include Broadcasting SMS of notices, campaigns & promotions? The SMS notification has limited character count including blank spaces and will be difficult to include identification, contact details and other prescribed information.

- x. Clause 9 – Regulations, Codes of Practice and Advisory Guidelines
 - a. Will there be stakeholder consultations for the regulations that would be made under the PDPO?
 - b. Would these regulations contain the prescriptions as stated throughout the PDPO?

- xi. Clause 12 – Existing Personal Data/Grandfathering Clause
 - a. We take note that this will apply after the date of commencement. Will the date of commencement take place after the sunrise period of 2 years after date of enactment or is the date of commencement the same as the date of enactment (albeit, enforcement taking place 2 years from the date of enactment)?