

Client Alert

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Latest Developments on the Personal Data Protection Bill in Thailand

The Thai government has initiated a digital economy plan to promote the IT sector and foster a digital environment. The Personal Data Protection Bill (the "Bill") was approved in principle by the Cabinet on 6 January 2015. The latest version of the Bill was further revised as proposed by the Council of State in May 2015.

Major Changes to the Bill

The latest version of the Bill, as of May 2015, presents significant changes. Many new concepts have been introduced into the draft, which now includes, among other things:

1. Exemptions from compliance

Certain persons/entities are exempt from compliance with this Bill, e.g., persons/entities which collect personal data for personal use, or persons/entities which use or disclose personal data for mass media activities, art, or literature for social welfare.

2. Redefinition and safe harbor for online data collection service providers

The definitions of "personal data" and "data controller" have also been refined to include exemptions. Personal data now excludes information on the deceased. Employees, contractors, and online data collection service providers are no longer considered data controllers.

3. Forms of consent

Consent of the personal data owner is required before collection. The Bill requires the form of consent to be in writing or given via an electronic system, unless consent cannot be obtained by such methods.

Key obligations on Collection, Use, Disclosure, and Transfer of Personal Data under the Bill

The Bill includes several amendments to the legal requirements for data controllers. The key obligations of data controllers in collecting, using, disclosing, and transferring personal data are summarized below:

1. Collection, use, and disclosure of personal data

Personal data cannot be collected, used, or disclosed unless consent is obtained from the data owner. There are some exemptions from such consent, e.g., for research or statistics, and such personal data is kept confidential. The Bill also regulates data controllers from collecting sensitive data, e.g., race, ethnicity, political opinions,

www.bakermckenzie.com

Bangkok

5th Floor and 21st-25th Floors
990 Abdulrahim Place
Rama IV Road, Silom, Bangrak
Bangkok 10500
Thailand



For further information
please contact:

Dhiraphol Suwanprateep
+66 2636 2000 ext. 4950
dhiraphol.suwanprateep@bakermckenzie.com

Pattaraphan Paiboon
+66 2636 2000 ext. 4568
pattaraphan.paiboon@bakermckenzie.com

Khunawut Tongkak
+66 2636 2000 ext. 4952
khunawut.tongkak@bakermckenzie.com

religious beliefs, sexual behavior, criminal history, and medical history.

2. Cross-border transfer

The transfer of personal data to other countries must comply with a sub-regulation to be issued by the Data Privacy Committee. There are exceptions in certain circumstances, e.g. when consent is obtained from the data owner.

The Bill is expected to be passed during the course of this year. After approval from the Council of State, the Bill will be forwarded to the Cabinet and later to the National Legislative Assembly (the “**NLA**”) for further consideration. Once the NLA endorses the draft law, it will be sent to His Majesty the King for final approval before being published in the *Government Gazette*. It will then come into force 180 days after the publication date.