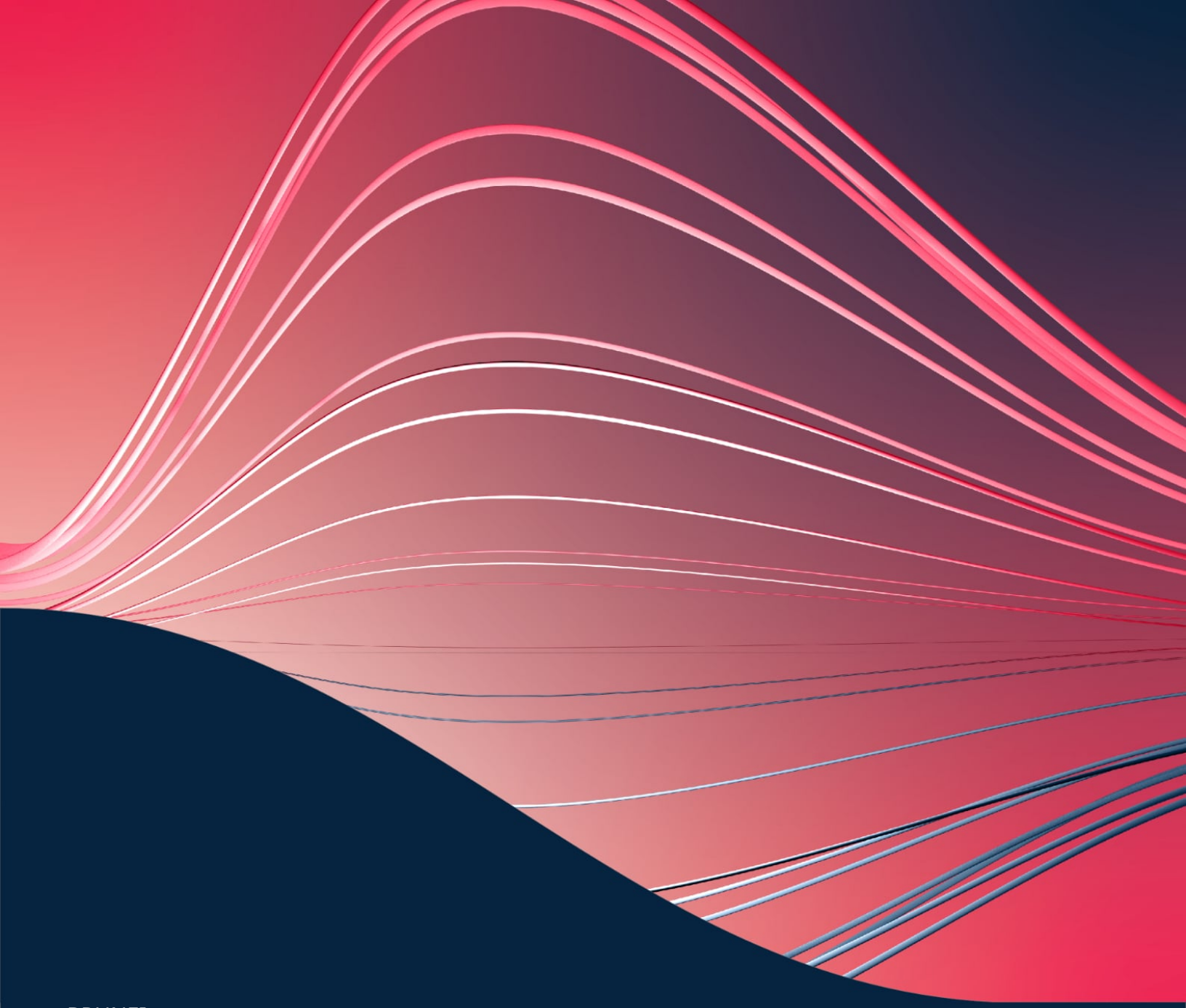

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Data Protection Laws of the World

DLA PIPER

Introduction

Welcome to the 2025 edition of DLA Piper's Data Protection Laws of the World Handbook. Since the launch of our first edition in 2012, this comprehensive guide has been a trusted resource for navigating the complex landscape of privacy and data protection laws worldwide. Now in its fourteenth edition, the Handbook has grown to provide an extensive overview of key privacy and data protection regulations across more than 160 jurisdictions. As we step into 2025, the global landscape of data protection and privacy law continues to evolve at an unprecedented pace. With new legislation emerging in jurisdictions around the world, businesses face a growing need to stay informed and agile in adapting to these changes. This year promises to bring new developments and challenges, making the Handbook an invaluable tool for staying ahead in this ever-changing field.

Europe

Established data protection laws in Europe continue to evolve through active regulatory guidance and enforcement action. In the United Kingdom, the UK government has proposed reforms to data protection and e-privacy laws through the new Data (Use and Access) Bill ("**DUAB**"). The DUAB follows the previous government's unsuccessful attempts to reform these laws post-Brexit, which led to the abandonment of the Data Protection and Digital Information (No.2) Bill ("**DPDI Bill**"), in the run-up to the general election. Although the DUAB comes with some bold statements from the government that it will *"unlock the power of data to grow the economy and improve people's lives"*, the proposals represent incremental reform, rather than radical change.

United States

In the United States, legislation on the federal and in particular state level continues to evolve at a rapid pace. Currently, the US has fourteen states with comprehensive data privacy laws in effect and six state laws will take effect in 2025 and early 2026. Additionally, at the federal level, the new administration has signaled a shift in enforcement priorities concerning data privacy. Notably, there is a renewed focus on the regulation of artificial intelligence (AI), with an emphasis on steering away from regulation and promoting innovation. This includes the revocation of previous executive orders related to AI and the implementation of new directives to guide AI development and use.

In the realm of children's privacy, many of the new administration's supporters in Congress have indicated a desire to make the protection of children on social media a top priority, and new leadership at the Federal Trade Commission (FTC) appears aligned on this goal, albeit with a willingness to take another look at the recently adopted amendments to the Children's Online Privacy Protection Act (COPPA) Rule. Health data

privacy remains a critical concern, with a handful of states following Washington state's lead in enhancing or adopting health data privacy laws. On the international data transfer front, Executive Order (E.O.) 14117 " Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern" as supplemented by the DOJ's final Rule will impact companies transferring data into certain jurisdictions, such as China, Iran and Russia. Another area of focus for companies with an EU presence will be the Trump administration's approach to the Privacy and Civil Liberties Oversight Board, as it is a critical pillar of the EU/UK/Swiss-US Data Privacy Framework.

Asia, the Middle East, and Africa

Nowhere is the data protection landscape changing faster – and more fundamentally – than in Asia, with new laws in India, Indonesia, Australia and Saudi Arabia, as well continued new data laws and regulations in China and Vietnam. The ever-evolving data laws, as well as the trend towards regulating broader data categories (beyond personal data), in these regions continue to raise compliance challenges for multi-national businesses.

Emerging trends in data governance

Unlocking data, regulating the relentless advance of AI, creating fairer digital markets and safeguarding critical infrastructure against the ever growing cyber threat, continue to impact and overlap with the world of data protection and privacy. Perhaps most notably, the EU have introduced a raft of new laws forming part of its ambitious digital decade, which will bring huge change to businesses operating within the EU. With the rapid adoption of artificial intelligence enabled solutions and functionality, data protection supervisory authorities have been closely scrutinising the operation of AI technologies and their alignment with privacy and data protection laws. For businesses, this highlights the need to integrate date protection compliance into the core design and functionality of their AI systems. In the midst of this, the privacy community found itself at the centre of an emerging debate about the concept of 'AI governance'. This is not a surprising development – AI systems are creatures of data and the principle-based framework for the lawful use of personal data that sits at the heart of data protection law offers a strong starting point for considering how to approach the safe and ethical use of AI. As AI technologies advance, so will regulatory expectations. It is expected that regulatory scrutiny and activity will continue to escalate and accelerate in tandem with the increase in integration of powerful AI models into existing services to enrich data. Whilst privacy professionals cannot tackle the AI challenge alone, expect them to continue to be on the front lines throughout 2025 and beyond.

Disclaimer

This handbook is not a substitute for legal advice. Nor does it cover all aspects of the legal regimes surveyed, such as specific sectorial requirements. Enforcement climates and legal requirements in this area continue to evolve. Most fundamentally, knowing high-level principles of law is just one of the components required to shape and to implement a successful global data protection compliance program.

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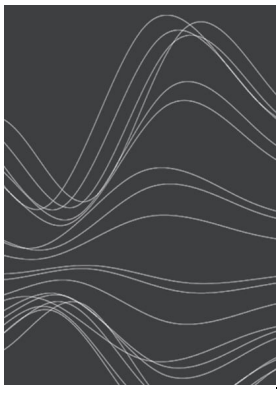

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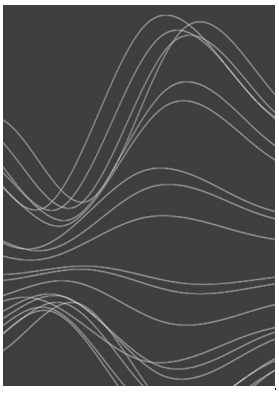

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Brunei

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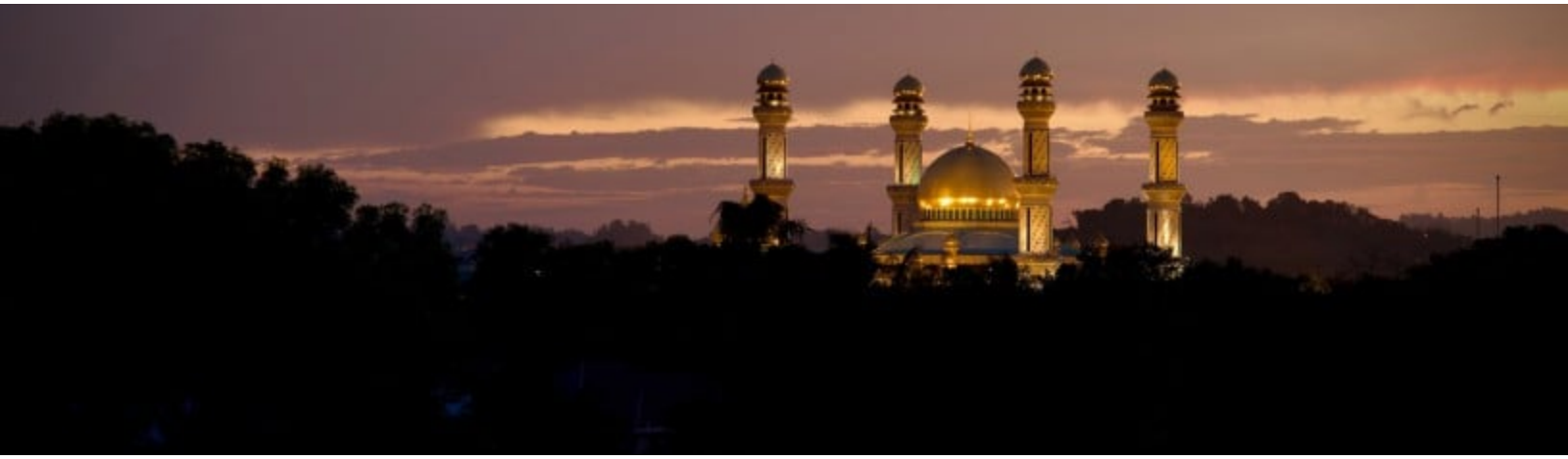

Data protection laws

At present there are no statutory or common law obligations that protects the privacy of information upon which an individual can be directly or indirectly identified, save in respect of banker – customer relationship where banks are under a legal duty to keep customer information confidential.

However, with the publication of the Public Consultation Paper on Personal Data Protection for the Private Sector in Brunei Darussalam by the Authority for Info-communications Technology Industry of Brunei Darussalam (**AITI**) on 20 May 2021 and the Response to Feedback on Public Consultation Paper on Personal Data Protection for the Private Sector published on 3 December 2021 (together, the **Public Consultation Paper**), it is anticipated that the Personal Data Protection Order (**PDPO**) will be enacted and come into force in the near future. Premise on the Public Consultation Paper, which sets out in general terms the data protection framework under the PDPO, it is anticipated that the PDPO will introduce obligations on the part of private sector organizations with respect to collection, use, disclosure or other processing of individuals' personal data and the rights of individuals in relation to the processing of their personal data.

Definitions

Definition of personal data

At present there is no legal definition.

It is anticipated that under the PDPO "personal data" will refer to data, whether true or not, about an individual who can be identified (a) from that data; or (b) from that data and other information to which the organization has or is likely to have access. Premised on such a definition of “personal data” it is envisaged that if a data subject cannot be identified by that data and other information to which the organization has or may have access to, such data would not come within the meaning of “personal data ” under PDPO and this would remain the situation regardless of any anonymisation

technique having been applied to the data. Noting that there are complexities surrounding the concept of anonymisation, AITI have expressed their intentions to provide guidance on anonymisation in due course.

Definition of sensitive personal data

At present there is no legal definition.

It is anticipated that the PDPO will not make a distinction between sensitive and non-sensitive personal data or define a category of "sensitive personal data".

National data protection authority

At present nil.

It is anticipated that the PDPO will establish a national data protection authority referred to as the Responsible Authority. It is anticipated that AITI will be designated as the Responsible Authority.

Registration

At present no legal requirement.

It is anticipated that the PDPO will not have any registration requirements.

Data protection officers

At present no legal requirement.

It is anticipated that the PDPO will require an organization to appoint a data protection officer who shall be responsible for ensuring that the organization complies with the PDPO and develops and implement policies and practices that are necessary to meet its obligations under the PDPO including a process to receive complaints. AITI have expressed the possibility of them issuing advisory guidelines to provide clarity and guidance on the topic of Data Protection Officers in the future.

Collection and processing

At present not a regulated activity.

Under the PDPO framework set out in the Public Consultation Paper, organizations may collect, use or disclose personal data about an individual for purposes that a reasonable person would consider appropriate in the circumstance.

It is anticipated that under the PDPO organizations may collect, use or disclose personal data where:

- they have the prior consent of the individual;
- unless otherwise required or authorized by law; or
- an exception in the PDPO applies.

Where consent is required, it is anticipated that the PDPO will not specifically prescribe the manner in which consent may be given and that the PDPO will recognize that consent may be explicit or implicit through an individual's actions or inactions, depending on the circumstances, and thereby allowing organizations flexibility as to how they obtain consent. That said, it is anticipated that the PDPO would require organizations to look to express consent as the first port of call and only rely on deemed consent or the exceptions to consent if obtaining consent is impractical or if they have otherwise failed to obtain express consent.

It is anticipated that under the PDPO consent must be validly obtained and consent would not be valid where:

- consent is obtained as a condition of providing a product or service and such consent is beyond what is reasonable to provide the product or service to the individual; the principle being that organizations should not collect more personal data than is reasonable and necessary; and
- where false or misleading information was provided in order to obtain or attempt to obtain the individual's consent for collecting, using or disclosing his personal data.

As part of obtaining valid consent, it is anticipated that the PDPO will require organizations to provide the individual with information on:

- the purposes for the collection, use or disclosure of his personal data, on or before collecting the personal data; and
- any other purpose for the use or disclosure of personal data that has not been notified to the individual, before such use or disclosure of personal data.

Further, it is anticipated that fresh consent would be required where personal data collected is to be used for a different purpose from which the individual originally consented.

For a minor (a person below the age of 18 years) who is unable to give consent to an organisation to collect, use and disclose his personal data, the organisation will have to obtain consent from a parent or legal guardian of the minor. AITI have expressed their intentions to provide guidance on data processing activities relating to minors in the future.

Transfer

At present not a regulated activity.

It is anticipated that under the PDPO, an organization shall not transfer personal data to a country outside Brunei Darussalam except in accordance with requirements prescribed under the PDPO to ensure that the transferred personal data will be accorded a standard of protection that is comparable to that under the PDPO. It is not anticipated that such requirement prescribed by the PDPO will be as stringent and prescriptive as in other jurisdiction, for example the EU, and it is anticipated that the PDPO will place the onus on organizations to ensure that appropriate measures are taken to protect personal data transferred out of Brunei Darussalam through the imposition of contractual obligations or otherwise.

AITI recommends the adoption of the ASEAN Model Contractual Clauses for Cross Border Data Flows (**MCCs**) which are templates for contractual terms and conditions which may be included in legal agreements between businesses to ensure personal data is protected when engaging in cross border data transfers between ASEAN Member States. But it remains to be seen if the adoption of the MCCs will be popular as it is envisaged that a fair amount of modification will have to be made to the MCCs so as to be compatible with the purposes of any particular cross-border transaction between organisations.

Security

At present not a regulated activity save in relation to a "Financial Institution" — see Mandatory Breach Notification.

It is anticipated that under the PDPO, an organization must protect personal data in its possession or under its control by making reasonable security arrangements to prevent:

- unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks; and
- the loss of any storage medium or device on which personal data is stored.

It is anticipated that under the PDPO data intermediaries will also be subjected to the same obligation to protect personal data in their possession.

It is anticipated that the PDPO will provide for a reasonable standard for such security measures taking into account factors such as the nature and sensitivity of the data, the form in which personal data is stored and the impact to the individual if the personal data is subject to unauthorized access, disclosure or other risks. But it is not anticipated that the PDPO will stipulate specific security measures to be adopted and implement by organizations and data intermediaries. That said, AITI have expressed their intentions to issue detailed guidance on the types of security measures, which will include administrative / organisational, physical and technical security measures in due course.

Breach notification

Mandatory Breach Notification

At present no legal requirement save in relation to a "Financial Institution" (i.e. banks, insurance companies, moneylenders, pawnbrokers, moneychangers and securities service providers licensed in Brunei Darussalam).

It is anticipated that under the PDPO, organizations are required to, as soon as practicable, but in any case no later than 3 calendar days after the assessment, notify the Responsible Authority of a data breach that:

- results in, or is likely to result in, significant harm to the individuals to whom any personal data affected by a data breach relates; or

- is or is likely to be, of a significant scale.

AITI have expressed their intentions to issue guidelines on “significant harm” and “ significant scale” in the near future.

Organizations are also anticipated to be required to notify the affected individuals on or after notifying the Responsible Authority if the data breach results in, or is likely to result in, significant harm to an affected individual.

Further, it is anticipated that unreasonable delays in reporting breaches that cannot be justified will be considered a breach of the data breach notification obligation.

Where a data breach is discovered by a data intermediary, it is anticipated that under the PDPO, the data intermediary will be under a duty to notify the organization or the Responsible Authority of the data breach.

A Financial Institution is obliged to report to the Brunei Darussalam Central Bank, no later than 2 hours after confirmation of all instances of cyber intrusion, disruption, malfunction, error or cybersecurity issues on a Financial Institution's system, server, network or end-point which has a severe or widespread impact on the operations and service delivery or has a material impact on the Financial Institution.

Enforcement

At present no enforcement authority.

It is anticipated that under the PDPO the Responsible Authority will administer and enforce the PDPO and will have the powers to do any of the following:

- issue directions to organizations to:
  - stop collecting, using or disclosing personal data in contravention of the PDPO;
  - destroy personal data collected in contravention of the PDPO; or
  - provide access to or correct personal data.
- impose a financial penalty of up to BND1 million or 10% of the annual turnover of on an organization for negligent or intentional breach of the PDPO.

Electronic marketing

No legal requirement to have privacy policies.

Online privacy

No legal requirement to have privacy policies.

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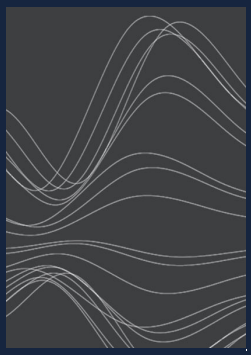

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About us

DLA Piper is a global law firm with lawyers located in more than 40 countries throughout the Americas, Europe, the Middle East, Africa and Asia Pacific, positioning us to help companies with their legal needs around the world.

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