









ASIA-PACIFIC DATA PRIVACY

MARCH 2009

Country / Region	Data Privacy Law
Australia 	<p>The <i>Privacy Act 1988</i> comprises general Privacy Principles and is broadly consistent with the <i>EU Data Protection Directive</i>. These principles apply to the federal government and the private sector (above a turnover threshold). They govern the collection, use, storage, access to, maintenance and disclosure of an individual's personal information.</p> <p>There are also specific regulations and Codes of Practice for particular industries such as banking, medical, e-commerce and telecommunications.</p>
China 	<p>There is no general data protection legislation in China although there are limited rights to privacy of communications and protections against the unauthorised disclosure of employees' data.</p> <p>A general data protection law was tabled in 2005 and is still under consideration. Amendments have also been proposed to the Criminal Law that will require data security measures be put in place by government offices, financial, medical and educational institutions, transport and communications departments.</p>
Hong Kong 	<p>Hong Kong has a comprehensive law that regulates the collection, transfer, processing and use of personal data broadly consistent with the <i>EU Data Protection Directive</i>.</p> <p>The Hong Kong <i>Personal Data (Privacy) Ordinance</i> regulates the activities of persons who control the collection, holding, processing or use of personal data. Violations of the Ordinance can lead to fines or civil proceedings for compensation against the data user by the data subject.</p>
India 	<p>There is no comprehensive national data protection law in India.</p> <p>However, there is legislation covering data privacy in limited circumstances. For instance, the <i>Information Technology Act 2000</i> imposes criminal sanctions on anyone who accesses a computer system in an unauthorized manner in order to download, copy or extract data or information. There are also specific data privacy regulations for the banking and telecommunications industries.</p>
Indonesia 	<p>There is no general law or regulation governing the collection and use of personal data in Indonesia. There are limited data privacy protections in the <i>Electronic Information and Transaction Act</i> passed in March 2008. This new legislation prohibits unlawful access to a computer system to obtain electronic information.</p>
Japan 	<p>Japan's <i>Personal Information Protection Law</i> provides general data privacy protection for information held by governmental and private sector data users. Various Ministries in Japan have also promulgated industry specific data privacy guidelines, including for the banking and medical sector. These guidelines technically do not have the force of law, but courts will look to the guidelines to construe the provisions of the <i>Personal Information Protection Law</i>.</p>

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<p>Korea</p> 	<p>Korea does not have a comprehensive law on data privacy equivalent to the <i>EU Data Protection Directive</i>.</p> <p>The <i>Act on Promotion of Usage of Information Telecommunications Networks and Protection of Information</i> protects the privacy of personal data obtained by on-line service providers. The <i>Act on Usage and Protection of Credit Information</i> and the <i>Act on Real Name Financial Transactions and Secrecy Protection</i> apply to information obtained by financial or financial services institutions, credit search services or any related services.</p>
<p>Malaysia</p> 	<p>There is a no comprehensive regime for the protection of personal data collected/handled by the private and public sectors in Malaysia.</p> <p>There is sector specific legislation that grants protection for personal data in some circumstances. The <i>Communications and Multimedia Act</i> (1988) contains provisions on privacy in the telecommunications sector, including a prohibition on unlawful interception of communications. The <i>Banking and Financial Institutions Act</i> (1989) contains provisions on privacy with respect to banking information.</p> <p>A draft comprehensive privacy bill has been proposed and is expected to be enacted in the future.</p>
<p>New Zealand</p> 	<p>New Zealand's <i>Privacy Act 1993</i> creates a comprehensive data protection regime covering the public and private sectors.</p> <p>Data users must comply with twelve information privacy principles for the collection, holding, use and disclosure of personal information (broadly consistent with the <i>EU Data Protection Directive</i>).</p> <p>There are also industry specific Codes of Conduct issued by the Privacy Commissioner for the telecommunications, banking and medical sector.</p>
<p>Philippines</p> 	<p>The Philippines does not have a general scheme protecting data privacy although industry specific legislation provides limited protections in areas like e-commerce.</p> <p>Data security measures are required under <i>Guidelines on IT systems</i> issued by the Department of Trade and Industry. Under these Guidelines, appropriate security measures must be implemented to ensure that personal data stored electronically cannot be accidentally or unlawfully used or accessed.</p> <p>The Philippines government is drafting a comprehensive privacy law which is expected to be enacted in the future.</p>
<p>Singapore</p> 	<p>Singapore does not currently have a general data privacy scheme.</p> <p>Some protection is provided for information which is collected or stored electronically through the <i>Electronic Transactions Act</i>, <i>National Computer Board (Amendment) Act</i> and the <i>Computer Misuse (Amendment) Act</i>. The National Internet Advisory Committee's <i>Model Data Protection Code for the Private Sector</i> published in 2002 creates data privacy rights broadly consistent with the <i>EU Data Protection Directive</i>. However, compliance with this model Code is currently voluntary.</p>

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<p>Taiwan</p> 	<p>There is no comprehensive data protection law in Taiwan, but limited sector specific rules apply. Most significantly, data stored electronically is covered by data privacy protections in the <i>Computer Processed Personal Data Protection Law</i>. This law is modelled on EU data protection legislation and applies to specified classes of data users, including financial institutions, medical service providers, professional data processors and telecommunication service providers.</p> <p>The <i>Computer Processed Personal Data Protection Law</i> can prohibit transfer of data out of Taiwan in some situations.</p>
<p>Thailand</p> 	<p>Thailand does not have a general data privacy law, although such legislation has been proposed in the past with the introduction of a <i>Data Protection and Privacy Bill</i> in 2001.</p> <p>Presently, there are legislative and administrative directions that create data privacy obligations in some circumstances (e.g. electronically stored information, information gathered in e-commerce).</p>
<p>Vietnam</p> 	<p>Vietnam does not have a general code of data privacy equivalent to the <i>EU Data Protection Directive</i>. There are limited ad hoc data privacy protections in place in Vietnam.</p> <p>Information that is stored in electronic form is covered by the <i>Law of Information Technology</i> which requires personal data transmitted in a network environment be kept confidential. The privacy of information exchanged in e-commerce transactions is protected by the <i>Law on Electronic Transactions</i>.</p>

FURTHER INFORMATION

If you would like to receive further information about this newsletter, please contact:

Gigi Cheah

Partner/Head of Intellectual Property & Technology, Asia

T: +852 2103 0621

E: gigi.cheah@dlapiper.com



David Olds

Registered Foreign Lawyer

T: +852 2103 0595

E: david.olds@dlapiper.com



Hank Leung

Registered Foreign Lawyer

T: +852 2103 0871

E: hank.leung@dlapiper.com

