

KEY CHANGES IN PERSONAL DATA PROTECTION (AMENDMENT) BILL 2024

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On July 31, 2024, the Dewan Negara (Malaysia's Senate) passed the Personal Data Protection (Amendment) Bill 2024 (PDP Bill). This bill introduces significant updates to the Malaysian Personal Data Protection Act 2010 (PDPA) to align more closely with international data protection standards. The bill is now expected to receive royal assent and will come into effect on a date to be announced by the Minister of Digital via notification in the Gazette.

In line with these changes, the Personal Data Protection Commissioner (PDP Commissioner) is anticipated to release several guidelines, which may include the Notification of Data Breach Guidelines and the Data Protection Officers Guidelines. The key changes of the PDP Bill are summarized in the infographic below:

Adoption of "Data Controller" term

01



The term "**data users**" will be replaced with "**data controllers**" to align with terminology used in other data protection frameworks, such as the European Union's General Data Protection Regulation (EU GDPR).

02

Appointment of Data Protection Officers

The PDP Bill requires both data controllers and data processors to appoint a **Data Protection Officer (DPO)** who must be registered with the Commissioner. This DPO will be in charge of making sure the organization complies with the **Personal Data Protection Act (PDPA)**.



Extension of the Security Principle to Data Processors

03



Currently, the PDPA regulates **only data controllers**. The PDP Bill alters this by mandating that data processors also adhere to the **Security Principle**, which requires safeguarding personal data from loss, misuse, modification, unauthorized access, or accidental exposure. Non-compliance will result in data processors being directly liable for **penalties** under the PDPA.

04

Mandatory notification of personal data breaches

The PDP Bill introduces a requirement for data controllers to notify both the **Personal Data Protection Commissioner** and the **affected individuals** if a breach occurs that "causes or is likely to cause significant harm". Failure to notify the PDP Commissioner of a personal data breach may result in a **maximum fine of RM 250,000 and/or maximum imprisonment term of two years**.



Increase of Penalties

05



Section 5 of the PDPA outlines seven personal data protection principles. The PDP Bill proposes increasing the penalties for violating these principles. The new penalties could include a fine of **up to RM1,000,000 and/or imprisonment for up to 3 years**, compared to the current maximum fine of RM300,000 and/or 2 years in prison.

06

Right to Data Portability

The PDP Bill introduces a **new right of data portability**, which allows individuals to request that their personal data be transferred directly from one data controller to another. However, this right is not absolute and will depend on whether the data format is technically feasible and compatible for transfer.



Recognition of Biometric Data as Sensitive Personal Data

07



The PDP Bill identifies "biometric data" as a **new category** of **sensitive personal data**. This refers to any personal data obtained from the technical processing of a person's physical, physiological, or behavioural characteristics, such as facial or fingerprint verification.

08

Removal of Whitelisting Regime for Cross-Border Data Transfers

The PDP Bill proposes **removing the unused white-list system**, which restricted transferring **personal data outside** Malaysia to specific locations approved by the Minister. Instead, the Bill will allow data controllers to transfer personal data abroad if the destination has laws similar to the PDPA or provides equivalent protection for personal data.



In conclusion, the amendments to Malaysia's Personal Data Protection Act reflect a progressive step towards aligning the country with global data protection standards while addressing the evolving challenges of the digital age. These changes highlight the critical importance of data privacy for both businesses and individuals, emphasizing the shared responsibility to protect personal information. Organizations must proactively adapt to and comply with these new regulations to ensure they meet the heightened standards of data protection.

1 <https://www.dataprotectionreport.com/2024/07/malaysia-introduces-watershed-amendments-to-personal-data-protection-act-2010/>

2 <https://www.privacyworld.blog/2024/08/malaysia-pushes-out-groundbreaking-amendment-to-personal-data-protection-act-impact-on-businesses/>

3 Amendment Bill to the Personal Data Protection Act 2010 Tabled for First Reading in the Malaysian Parliament, Christopher & Lee Ong, Client Update Malaysia, 2024 July.

4 D.R. 21/2024, Rang Undang-Undang bernama Suatu Akta untuk meminda Akta Perlindungan Data Peribadi 2010.