

Alibaba Cloud User Guide
on
**Macau Personal Data Protection Act
(Law No. 8/ 2005)**

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Worldwide Cloud Services Partner

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Background

The Personal Data Protection Act of Macau (or Macao), also known refer as Law No. 8/ 2005, governs the processing and protection of personal information. Inspired by the Portugal's legislation, the law is similar to Directive 95/46/EC and compares to other data protection regulations in Asia. Thus, there are familiar terms to the current EU's General Data Protection Regulation 2016/679 (GDPR). The Office for Personal Data Protection (OPDP or GPDP in Portuguese) is the regulatory authority in Macau with the authority to administer and enforce the rules of the Personal Data Protection Act (PDPA).

Scope

The law applies to most data processing activities except for processing performed by individuals for personal and family processing activities “without engaging in systematic communications or dissemination.”

The PDPA is a development of Article 30, 32 and 43 of the Macau Basic Law. The main purpose of the PDPA is to protect the individuals' fundamental rights, freedoms and guarantees provided in Macau Basic Law. Article 43 of the Basic Law extends the protection to non-Macau residents, which makes them also protected by the PDPA when they are in Macau.

Definition

According to the PDPA, here are some definition of basic terms:

Personal Data – This refers to any information relating to a natural person, whose identity may be identified or identifiable. Normally, personal data are also always referred to as personal privacy.

Sensitive Data – This refers to personal data such as philosophical or political beliefs, political society or trade union membership, religion, privacy and racial or ethnic origin, and data concerning health or sex life, including genetic data. Unless regulated otherwise by legal provision, the processing of sensitive data shall be prohibited.

Processing of Personal Data – This refers to operation upon personal data in any form, by any means and medium, such as collection, recording, organisation, storage, adaptation, alteration, retrieval, consultation, use, transmission, dissemination, blocking, erasure or destruction. This includes the collection and handling of personal data in paper forms, via telephone or Internet, discs, paper documents, PC and server, microfilms, originals and copies.

Automatic processing – refers to the personal data processing by means of computers or electronic technology, with which a data controller shall inform the GPDP within eight days after processing is initiated.

Data Subject – This refers to the natural person whose data is processed. As personal data processing covers extensive areas, everyone is likely to be considered a data subject.

Controller – This may be a natural or legal person, public entity, agency or any other body which has the capacity to decide independently or in collaboration with others on the following things:

- the purposes of personal data processing;
- the means of personal data processing.

Processor – This may be a natural or legal person, public entity, agency or any other entity commissioned by a data processing entity to undertake personal data processing.

In order to help further understand the roles and responsibilities, the OPDP stated that the role of a processor “does not release them from their legal obligations to autonomously handle the data processing in accordance with law,” and in some cases, a processor “is treated as a ‘data controller’ under another legal purpose, and as such it does not have to process the data according to” the controller’s instructions.

Security Measures

Similar to the GDPR, a processor only processes personal data based on the instruction of the controller. While the controller decides the purpose and the means of personal data processing, the processor is responsible for the security of the personal data it process. Therefore, in addition to the controller’s own security measures, strong **security measures** become very important when selecting a processor.

To demonstrate sufficient technical and organizational security measures for the data processing, Alibaba Cloud has published the latest version of our [Security White Paper](#) describing our security methodology. The whitepaper covers each of the following aspects, such as security policies, organizational security, compliance, data security, access control, personnel security, physical security, infrastructure security, systems and software development and maintenance, disaster recovery and business continuity. The content of the paper provides useful guidance on how our security practices can support the compliance requirements.

Data Processing

According to the PDPA, “Personal data may be processed only if the data subject has unambiguously given his consent or if processing is necessary” such as performance of a contract, legal obligations, or in the public interest, etc.

Alibaba Cloud is committed to protect customer personal information and guarantees that such information is only used for the purposes agreed to by customers. Our privacy policy describes how we collect personal information, as well as the purposes for the collection, retention, use, disclosure and transfer of personal data.

The PDPA also requires additional procedures to be followed besides the consent of data subject. There are certain occasions such as,

- 1) automatic processing of personal data,
- 2) processing of sensitive data,
- 3) exemption from the obligation to provide information, and
- 4) transferring personal data outside the Macau,

“where the data controller has to [notify](#) the OPDP or even request prior authorization before processing personal data.” A data controller shall, in accordance with the PDPA notify the OPDP in writing within eight (8) days after the initiation of carrying out any “wholly or partly automatic processing operation or set of such operations intended to serve a single purpose or several related purposes.” “Failure to notify the OPDP is considered as a violation of law.”

Transfer of Personal Data outside the Macau SAR

There are four options when transferring personal data outside of Macau.

Option 1 – A favorite opinion by the OPDP, to decide whether there is an adequate level of protection of personal data at the destination location upon the request of the controller. The OPDP will consider the legal system of the destination, the involved parties, and other aspects.

Option 2 – Notification to the OPDP that one of the exceptions applies. For example, “the public authority is notified, and that the data subject has given his consent unambiguously to the proposed transfer”. Detail conditions are listed under Article 20 Derogations. These conditions are very close to the EU’s Directive.

Option 3 – The controller may seek the OPDP’s approval for the transfer if both the controllers and the recipients prove to the OPDP that they are able to safeguard the personal data, even if the recipient country does not have an adequate level of protection.

Option 4 – If the recipient jurisdiction is part of the international treaty or agreements.

Regardless which option to choose, Article 23 of the PDPA listed out the [information needed](#) to notify the OPDP, or to seek for authorization or opinion.

Right of Access

Similar to the GDPR and other privacy regulations, the PDPA also provide the data subject with right of Access and a series of actions that a data subject could take in order to exercise his/her rights.

Alibaba Cloud uses customer personal data to communicate with customers about our products and services and provide customers with marketing information. Those types of consent can be managed at the customer portal, and may subsequently be withdrawn at any time without affecting the lawfulness of processing based on consent before its withdrawal. We retain customer personal data as needed to provide services or products to customers, to resolve disputes, or as required or permitted by applicable laws, such as tax and accounting laws. Our privacy practices are completely transparent to the public, and can be found on our official website at: <https://www.alibabacloud.com/help/faq-detail/42425.htm>

At Alibaba Cloud, customers have the right to request access to their personal data held by us (or on our behalf) and to request correction or deletion of such personal data. Alibaba Cloud also provides an account deletion function, which achieves systematic account deletion.

Conclusion

At Alibaba Cloud, we are committed to our customers around the world. We understand the importance of international data protection standards and will help ensure security interests for countries globally are respected. More detail of our compliance program can be found online at <https://www.alibabacloud.com/trust-center>.

Reference

Office for Personal Data Protection (OPDP) <https://www.gdp.gov.mo>

Personal Data Protection Act (PDPA) *English Version*
<https://www.gdp.gov.mo/uploadfile/2016/0302/20160302033801814.pdf>

Notification | Authorization
<https://www.gdp.gov.mo/index.php?m=content&c=index&a=lists&catid=200>

The [information needed](#) to notify the OPDP, or to seek for authorization or opinion
https://www.gdp.gov.mo/index.php?m=content&c=index&a=show&catid=398&id=19#apply_grant