

Personal Data Protection Act

FAQ



1 What is the PDPA?

The PDPA is also known as Law No. 8/2005. The PDPA establishes the legal regime on the processing and protection of personal data. It shall apply to the processing of personal data by all natural persons or legal persons, public entities, departments, or any other institutions, except the processing of personal information by natural persons in the course of purely personal or household activities.

2 What is the scope of the PDPA?

- The processing of personal data wholly or partly by automatic means, e.g., the automatic processing of personal data by computers, photographic equipment, or applications.
- The processing otherwise than by automatic means of personal data which form part of a manual filing system or which are intended to form part of a manual filing system, e.g., the purely paper-based processing of personal information.
- The PDPA shall not apply to the processing of personal information by natural persons in the course of purely personal or household activities, except where for the purposes of systematic communication and dissemination.

3 What does personal data mean?

Personal data means any information relating to an identified or identifiable natural person ("data subject"), which can be classified as **common personal data, sensitive data, data relating to persons suspected of illegal activities or criminal or administrative offenses, credit and solvency data, and supervisory data.**

- **Sensitive data** means personal data revealing philosophical or political beliefs, political association or trade union membership, religion, privacy, racial or ethnic origin, and data concerning health or sex life, including genetic data.
- **Data relating to persons suspected of illegal activities or criminal or administrative offenses** means, without limitation, the personal data related to a person's suspected crime or offense and data related to decisions applying penalties, security measures, fines, and additional penalties.
- **Credit and solvency data** means, without limitation, bank transaction records and monthly statements.
- **Supervisory data** means, without limitation, telephone recordings, sound, images, email records, and Internet browsing records.

- **Common personal data** generally includes identity data, family information, and job activity data.
- **Identity data** includes but is not limited to the type and number of the identity document, copy of the identity document, name, gender, age, date of birth, birthplace, nationality, photos, contact information, common language, and academic qualifications.
- **Family information** includes but is not limited to marital status, and names of the spouse, children, and parents.
- **Job activity data** includes but is not limited to the type and name of job, work experience, bank account number, salary, and income.

4 What should be paid attention to when collecting personal data?

- Inform the data subject of the information related to the processing of his/her personal data in accordance with the law, such as:
 - The identity of the processor (e.g., the name of the company or institution)
 - The purpose of collection (e.g., for the purpose of recruitment or contact with the data subject)
 - The whereabouts of the data (e.g., submission to other governmental authorities or other companies within the group)
 - Whether responses to the questions are mandatory, as well as the possible consequences of failure to respond (e.g., the collection of personal data is just for a market survey, and responses to the questions in the questionnaire are based on free will)
 - The existence and conditions of the right of access and the right to rectify
- The documents, websites, or applications supporting the collection of personal data shall contain the foregoing information, and it is suggested that the websites and applications contain a Personal Data Collection Statement and set forth the foregoing information.
- Respect the privacy of personal life and family life. Do not collect privacy data if possible. If the privacy data collection is lawful and unavoidable, collect the minimum required amount of privacy data.

5 What should be paid attention to when processing personal data?

- The processing of personal data means any operation or set of operations which is performed upon personal data, such as collection, storage, alteration, transmission, dissemination, and destruction, without being subject to any restrictions in any ways or carriers.
- Where personal data needs to be transferred to a destination outside Macau:
 - If the legal system in the destination ensures an adequate level of protection (note: the Office for Personal Data Protection ("GPDP") has not made any decision on the adequate level of protection towards any jurisdiction), the transfer of personal data shall be subject to compliance with this PDPA.
 - If the legal system in the destination does not ensure an adequate level of protection, the conditions specified in applicable laws shall be met, and the GPDP shall be **notified** and an **authorization application** shall be filed with the GPDP based on actual situations.
- The combination of data in a filing system with data in a filing system or systems kept by another or other responsible entities, or kept by the same responsible entity for other purposes shall meet the following principles:
 - Legality:** Unless otherwise provided by law, authorization of the GPDP must be obtained.



- ii. **Legitimacy:** It shall meet the purposes specified by laws and the articles of association and the legitimate interests of the responsible entity.
- iii. **Guarantee:** It shall not involve discrimination or a reduction in the rights, freedoms, and guarantees of the data subjects.
- iv. **Security:** It shall be covered by adequate security measures.
- v. **Limitation:** The type of data to be combined shall be limited to the necessary scope.



6 Under what conditions is it necessary to notify the GPDP?

In accordance with the PDPA, the entity responsible for the processing of personal data must notify the GPDP when carrying out the following processing operations of personal data. Failure to fulfill the obligation of notification as stipulated shall be deemed as a violation of law.

- a. **The processing of personal data by automatic** means: It generally means the processing of personal data with the use of computers and electronic techniques. The entity shall notify the GPDP within eight days after the initiation of processing.
- b. **Processing of sensitive data: Sensitive data shall be processed by non-automatic** means when it is necessary to protect the vital interests of the data subject or of another person, and the data subject is physically or legally incapable of giving his/her consent.
- c. **Exemption from the obligation to provide information:** The processing of data may be exempted from the obligation to inform the data subjects of the processing operations, where the processing is carried out for statistical purposes or historical or scientific research purposes and the provision of information to the data subject proves to be impossible or would involve a disproportionate effort, or where the recording or disclosure of the personal data is expressly laid down by law and administrative regulations, in which case notification to the public authority is required.
- d. **Transfer of personal data outside Macau:** Personal data may be transferred to a destination (in which the legal system is not deemed by the GPDP as a place providing an adequate level of protection) outside Macau, where the conditions specified in Paragraph 1 of Article 20 of the PDPA are met and the GPDP is notified.

7 Under what conditions is it necessary to file an authorization application with the GPDP?

Before carrying out the following processing operations of personal data, the entity responsible for the processing of personal data shall file an **authorization application** with the GPDP. Failure to comply with the foregoing shall constitute a violation of law.

- a. **Processing of sensitive data:** Sensitive data may be processed when, for reasons of substantial public interest, such processing is essential for the entity responsible for the processing to perform its duties and responsibilities.
- b. **Processing of credit and solvency data:** It means the processing of data relating to the credit and solvency of the data subjects.
- c. **Combination of data:** It means the combination of personal data not provided for in a legal provision or a provision of a regulation of an organic nature.
- d. **Change of the purpose of data:** Personal data are used for purposes not giving rise to their collection.

- e. **Extension of the storage period of data:** The storage period of personal data is extended for legitimate interests and for historical or scientific research purposes or statistical purposes.
- f. **Transfer of data outside Macau:** Where the transfer of personal data does not meet the conditions set forth in Paragraph 1 of Article 20 of the PDPA, the entity may apply for authorization, provided that it adduces adequate safeguards with respect to the protection of the privacy and fundamental rights and freedoms of individuals and with respect to their exercise, particularly by means of appropriate contractual clauses, and may transfer the personal data to a destination (in which the legal system is not deemed by the GPDP as a place providing an adequate level of protection) outside Macau after obtaining the authorization of the PDPA.
- g. **Transitional provision on data stored prior to the date of entry into force of the PDPA:** If data stored in manual filing systems and kept solely for the purposes of historical research prior to the date of entry into force of the PDPA (i.e., February 19, 2006) will not be used again for other purposes, the entity responsible for the processing of the data may apply to the GPDP for exemption from the obligations of notification and authorization application.

8 What should be prepared for filing an authorization application with and notifying the GPDP? How long does the process take?

The process is divided into three parts:



- a. The entity responsible for the processing of personal data shall prepare a business registration certificate (copy), M1/M8 (copy), and other supplementary documents relating to the processing of personal data (such as relevant terms of use or privacy policy), and download and complete the applicable Notification of Personal Data Processing or Authorization Application Form of Personal Data Processing based on the actual data to be processed.



- b. Submit by hand or mail the business registration certificate (copy), M1/M8 (copy), other supplementary documents, and the completed Notification of Personal Data Processing or Authorization Application Form of Personal Data Processing to the GPDP.



- c. After receiving the application, the GPDP will notify the entity responsible for the processing of personal data of the result by an official letter or require the entity to submit other supplementary documents. The specific length of time that the process will take varies with the content and type of application submitted, which generally lasts one or more months.

9 How to complete the Notification of Personal Data Processing?

Please refer to the following links for the template for completing the Notification of Personal Data Processing:

1. Cross-border Data Transfer GPDP Application for Adopting Security Services
2. Cross-border Data Transfer GPDP Application for E-commerce Business Scenarios



Alibaba Cloud Trust Center - Macau