

Information Privacy Individual Action Plan

Chinese Taipei (2022)

	APEC Principle / Commentary	Privacy Protection Scheme (legislation, rules, codes, frameworks, and other) ¹	Provision ²	Sanction ³	Results/ Status ⁴
A	Is privacy a constitutionally protected right in your economy?	<ol style="list-style-type: none"> 1. Constitution of our economy, available at : https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0000001 2. Judicial Yuan Interpretation No. 585, available at: https://cons.judicial.gov.tw/jc/en-us/jep03/show?expno=585 3. Judicial Yuan Interpretation No. 603, available at: https://cons.judicial.gov.tw/jc/en-us/jep03/show?expno=603 4. Judicial Yuan Interpretation No. 613, available at: https://cons.judicial.gov.tw/jc/en-us/jep03/show?expno=613 	Article 22 of the Constitution of our economy, stipulates that all other freedoms and rights of the people that are not detrimental to social order or public welfare shall be guaranteed under the Constitution. Furthermore, through various constitutional interpretations (Judicial Yuan Interpretation No. 585, No.603, and No.631), the Grand Justices of the Constitutional Court under the Judicial Yuan has explicitly included privacy as one of the rights protected under Article 22 of the Constitution.	Violations are subject to private action, criminal penalties, or administrative fines.	
1	I Preventing Harm (Ref. Para. 14)	The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/Law	<ol style="list-style-type: none"> 1. Article 1 of the PDPA stipulates that this Law is enacted to regulate the 	Violations of the PDPA are subject to private action (articles 28-29), criminal penalties	

¹ Note here the legislation, rule, code, framework or other privacy protection scheme. Where possible please provide the URL for the website where the legislation or arrangement is available.

² Insert the full text or summary of the provisions of your privacy protection scheme(s) that correspond to the APEC Privacy Principles identified in the column titled "APEC Principle/ Commentary".

³ Sanctions should include the nature of the remedies available, the means by which they are obtained, and by whom (for example, government, local law enforcement, private right of action, etc.).

⁴ Identify areas where the practice and the intent of the principle need further consideration; and identify the status of the economies' practice, for example enacted, introduced, draft. If your legislation, rule, code, framework or other privacy protection scheme is at the drafting or proposal stage and has not yet been enacted or implemented, please indicate here and provide any other useful comments."

	APEC Principle / Commentary	Privacy Protection Scheme (legislation, rules, codes, frameworks, and other) ¹	Provision²	Sanction³	Results/ Status⁴
	Recognizing the interests of the individual to legitimate expectations of privacy, personal information protection should be designed to prevent the misuse of such information. Further, acknowledging the risk that harm may result from such misuse of personal information, specific obligations should take account of such risk, and remedial measures should be proportionate to the likelihood and severity of the harm threatened by the collection, use and transfer of personal information.	Class/LawAll.aspx?pcode=I0050021	<p>collection, processing and use of personal data so as to prevent harm on personality rights, and to facilitate the proper use of personal data.</p> <p>2. Article 5 of the PDPA stipulates that the collection, processing and use of personal data shall be carried out in a way that respects the data subject's rights and interest, in an honest and good-faith manner, shall not exceed the necessary scope of specific purposes, and shall have legitimate and reasonable connections with the purposes of collection.</p> <p>3. Articles 15 and 16 of the PDPA stipulate that the collection, processing, and use of personal data by a government agency shall be for specific purposes and be based on one of the lawful bases provided.</p> <p>4. Articles 19 and 20 of the PDPA stipulate that the collection, processing, and use of personal data by a non-government agency shall be for specific purposes and be based on one of the lawful bases provided.</p>	(articles 41-42), or administrative fines (articles 47-50, which are enforced by the central government authorities in charge of the industries concerned or the municipality/city/county governments concerned).	
2	<i>II Notice (Ref. Para. 15-17)</i>	The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/Law	1. Articles 8 and 9 stipulate that a government or non-government agency shall	Competent authorities may order the non-government agency violating articles 8 or 9 of the	

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	<p>Personal information controllers should provide clear and easily accessible statements about their practices and policies with respect to personal information that should include:</p> <p>a) the fact that personal information is being collected;</p> <p>b) the purposes for which personal information is collected;</p> <p>c) the types of persons or organizations to whom personal information might be disclosed;</p> <p>d) the identity and location of the personal information controller, including information on how to contact them about their practices and handling of personal information;</p> <p>e) the choices and means the personal information controller offers individuals for limiting the use and disclosure of, and for accessing and</p>	<p>Class/LawAll.aspx?pcode=I0050021</p>	<p>expressly inform data subjects of the information specified when collecting their personal data, including, for example, the name of the government or non-government agency; the purpose of the collection; the categories of the personal data to be collected; the time period, territory, recipients, and methods of which the personal data is used; the data subject's rights and the methods for exercising such rights; and the data subject's rights and interests that will be affected if he/she elects not to provide his/her personal data.</p> <p>2. If the personal data collected was not provided by the data subject himself/herself, the obligation to inform may be exempt under certain circumstances (e.g., where the personal data has been disclosed to the public by the data subject or has been made public lawfully; or where the personal data is collected by mass communication enterprises for the purpose of news reporting for the benefit of public interests) .</p>	<p>PDPA to rectify the violation within a specified period of time; if the non-government agency fails to rectify the violation in time, an administrative fine will be imposed on the non-government agency for each occurrence of the violation (article 48 of the PDPA).</p>	

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	<p>correcting, their personal information.</p> <p>All reasonably practicable steps shall be taken to ensure that such notice is provided either before or at the time of collection of personal information. Otherwise, such notice should be provided as soon after as is practicable.</p> <p>It may not be appropriate for personal information controllers to provide notice regarding the collection and use of publicly available information.</p>				
3	<p>III Collection Limitation (Ref. Para. 18)</p> <p>The collection of personal information should be limited to information that is relevant to the purposes of collection and any such information should be obtained by lawful and fair means, and where appropriate, with notice to, or consent of, the individual concerned.</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p>	<p>1. Article 5 of the PDPA stipulates that the collection, processing and use of personal data shall be carried out in a way that respects the data subject's rights and interest, in an honest and good-faith manner, shall not exceed the necessary scope of specific purposes, and shall have legitimate and reasonable connections with the purposes of collection.</p> <p>2. Article 15 of the PDPA</p>	<p>Violations of articles 15 and 19 of the PDPA are subject to private action (articles 28-29), criminal penalties (articles 41), or administrative fines (article 47, which is enforced by the central government authorities in charge of the industries concerned or the municipality/city/county governments concerned).</p>	.

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			<p>stipulates that the collection or processing of personal data by a government agency shall be for specific purposes and on one of the following bases:</p> <ul style="list-style-type: none"> (1) where it is within the necessary scope to perform its statutory duties; (2) where consent has been given by the data subject; or (3) where the rights and interests of the data subject will not be infringed upon. <p>3. Article 19 of the PDPA stipulates that the collection or processing of personal data by a non-government agency shall be for specific purposes and on one of the following bases:</p> <ul style="list-style-type: none"> (1) where it is expressly required by law; (2) where there is a contractual or quasi-contractual relationship between the non-government agency and the data subject, and proper security measures have been adopted to ensure the security of the personal data; (3) where the personal data has been disclosed to the 		

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			<p>public by the data subject or has been made public lawfully;</p> <p>(4) where it is necessary for statistics gathering or academic research by an academic institution in pursuit of public interests, provided that such data, as processed by the data provider or as disclosed by the data collector, may not lead to the identification of a specific data subject;</p> <p>(5) where consent has been given by the data subject;</p> <p>(6) where it is necessary for furthering public interest;</p> <p>(7) where the personal data is obtained from publicly available sources unless the data subject has an overriding interest in prohibiting the processing or use of such personal data; or</p> <p>(8) where the rights and interests of the data subject will not be infringed upon.</p>		
4	<p>IV Use of Personal Information (Ref. Para. 19)</p> <p>Personal information collected should be used</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p>	<p>1. Article 16 of the PDPA stipulates that a government agency shall use personal data only within the necessary scope of its statutory duties and for the</p>	<p>Violations of articles 16 and 20(1) of the PDPA are subject to private action (articles 28-29), criminal penalties (articles 41), or administrative fines (article 47, which is enforced by the central</p>	

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	<p>only to fulfill the purposes of collection and other compatible or related purposes except:</p> <p>a) with the consent of the individual whose personal information is collected; b) when necessary to provide a service or product requested by the individual; or, c) by the authority of law and other legal instruments, proclamations and pronouncements of legal effect.</p>		<p>specific purpose of collection; the use of personal data for another purpose shall be only on any of the following bases:</p> <ol style="list-style-type: none"> (1) where it is expressly required by law; (2) where it is necessary for ensuring domestic security or furthering public interest; (3) where it is to prevent harm on life, body, freedom, or property of the data subject; (4) where it is to prevent material harm on the rights and interests of others; (5) where it is necessary for statistics gathering or academic research by a government agency or an academic institution for public interests; provided that such data, as processed by the data provider or as disclosed by the data collector, may not lead to the identification of a specific data subject; (6) where it is for the data subject's rights and interests; or (7) where consent has been given by the data subject. <p>2. Article 20 (1) of the PDPA stipulates that a</p>	<p>government authorities in charge of the industries concerned or the municipality/city/county governments concerned).</p>	

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			<p>non-government agency shall use personal data only within the necessary scope of the specific purpose of collection; the use of personal data for another purpose shall be only on any of the following bases:</p> <ul style="list-style-type: none"> (1) where it is expressly required by law; (2) where it is necessary for furthering public interests; (3) where it is to prevent harm on life, body, freedom, or property of the data subject; (4) where it is to prevent material harm on the rights and interests of others; (5) where it is necessary for statistics gathering or academic research by a government agency or an academic institution for public interests; provided that such data, as provided by the data provider or disclosed by the data collector, may not lead to the identification of a specific data subject; (6) where consent has been given by the data subject; or (7) where it is for the data subject's rights and interests. 		

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5	<p>V Choice (Ref. Para. 20)</p> <p>Where appropriate, individuals should be provided with clear, prominent, easily understandable, accessible and affordable mechanisms to exercise choice in relation to the collection, use and disclosure of their personal information. It may not be appropriate for personal information controllers to provide these mechanisms when collecting publicly available information.</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p>	<p>Article 20(2) and (3) stipulate that when a non-government agency uses personal data for marketing purpose, upon the data subject's objection to such use, the agency shall cease using the data subject's personal data for marketing. In addition, a non-government agency, when using the data subject's personal data for marketing purpose for the first time, shall provide the data subject of the ways that he/she can object to such use, and the agency shall pay for the fees therefrom.</p>	<p>Competent authorities may order the non-government agency violating articles 20(2) or (3) of the PDPA to rectify the violation within a specified period of time; if the non-government agency fails to rectify the violation in time, an administrative fine will be imposed on the non-government agency for each occurrence of the violation (article 48 of the PDPA).</p>	
6	<p>VI Integrity of Personal Information (Ref. Para. 21)</p> <p>Personal information should be accurate, complete and kept up-to-date to the extent necessary for the purposes of use.</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p>	<ol style="list-style-type: none"> 1. Article 3(3) of the PDPA stipulates that a data subject shall be able to exercise the right to supplement or correct his/her personal data, and such a right shall not be waived or limited contractually in advance. 2. Article 11(1) of the PDPA stipulates that a government or non-government agency shall ensure the accuracy of personal data in its possession and correct or supplement such data on its own initiative or upon the request of data subjects. 	<p>Competent authorities may order the non-government agency violating article 11 of the PDPA to rectify the violation within a specified period of time; if the non-government agency fails to rectify the violation in time, an administrative fine will be imposed on the non-government agency for each occurrence of the violation (article 48 of the PDPA).</p>	

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7	<p>VII Security Safeguards (Ref. Para. 22)</p> <p>Personal information controllers should protect personal information that they hold with appropriate safeguards against risks, such as loss or unauthorized access to personal information, or unauthorized destruction, use, modification or disclosure of information or other misuses. Such safeguards should be proportional to the likelihood and severity of the harm threatened, the sensitivity of the information and the context in which it is held, and should be subject to periodic review and reassessment.</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p> <p>The Enforcement Rules of the Personal Data Protection Act, available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050022</p>	<ol style="list-style-type: none"> 1. Article 18 of the PDPA stipulates that the government agency in possession of personal data files shall assign dedicated personnel to implement security and maintenance measures to prevent the personal data from being stolen, altered, damaged, destroyed or disclosed. 2. Article 27(1) of the PDPA stipulates that a non-government agency in possession of personal data files shall implement proper security measures to prevent the personal data from being stolen, altered, damaged, destroyed or disclosed. 3. Article 12 of the Enforcement Rules of the PDPA stipulates that the measures prescribed in articles 18 and 27 of the PDPA shall mean the technical or organizational measures which may include the following and shall be proportionate to the intended purposes of personal data protection: <ol style="list-style-type: none"> (1) allocating management personnel and reasonable resources; (2) defining the scope of personal data; (3) establishing a mechanism 	<p>Competent authorities may order the non-government agency violating article 27(1) of the PDPA to rectify the violation within a specified period of time; if the non-government agency fails to rectify the violation in time, an administrative fine will be imposed on the non-government agency for each occurrence of the violation (article 48 of the PDPA).</p>	

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			<p>of risk assessment and management of personal data;</p> <p>(4) establishing a mechanism of preventing, giving notice of, and responding to a data breach;</p> <p>(5) establishing an internal control procedure for the collection, processing, and use of personal data;</p> <p>(6) managing data security and personnel;</p> <p>(7) promoting awareness, education and training;</p> <p>(8) managing facility security;</p> <p>(9) establishing an audit mechanism of data security;</p> <p>(10) keeping records, log files and relevant evidence; and</p> <p>(11) Implementing integrated and persistent improvements on the security and maintenance of personal data.</p>		
8	<p>VIII Access and Correction (Ref. Para. 23-25)</p> <p>Individuals should be able to:</p> <p>a) obtain from the personal information</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p>	<p>1. Article 3 of the PDPA stipulates that a data subject shall be able to exercise the following rights with regard to his/her personal data and such rights shall not be waived or limited contractually in advance:</p> <p>(1) the right to make an</p>	<p>Competent authorities may order the non-government agency violating articles 10 or 11 of the PDPA to rectify the violation within a specified period of time; if the non-government agency fails to rectify the violation in time, an administrative fine will be imposed on the</p>	

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	<p>controller confirmation of whether or not the personal information controller holds personal information about them;</p> <p>b) have communicated to them, after having provided sufficient proof of their identity, personal information about them;</p> <p>i. within a reasonable time;</p> <p>ii. at a charge, if any, that is not excessive;</p> <p>iii. in a reasonable manner;</p> <p>iv. in a form that is generally understandable; and,</p> <p>c) challenge the accuracy of information relating to them and, if possible and as appropriate, have the information rectified, completed, amended or deleted.</p> <p>Such access and opportunity for correction should be provided except where:</p>		<p>inquiry of and to review his/her personal data;</p> <p>(2) the right to request a copy of his/her personal data;</p> <p>(3) the right to supplement or correct his/her personal data;</p> <p>(4) the right to demand the cessation of the collection, processing or use of his/her personal data; and</p> <p>(5) the right to erase his/her personal data.</p> <p>2. Article 10 of the PDPA stipulates that upon the request of a data subject, the government or non-government agency shall reply to the data subject's inquiry, allow the data subject to review the personal data collected, or provide the data subject with a copy thereof except under any of the following circumstances:</p> <p>(1) where domestic security, diplomatic or military secrets, overall economic interests or other material domestic interests may be harmed;</p> <p>(2) where a government agency may be prevented from performing its statutory duties; or</p> <p>(3) where the material interests of the data collectors or any third</p>	<p>non-government agency for each occurrence of the violation (article 48 of the PDPA).</p>	

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	<p>(i) the burden or expense of doing so would be unreasonable or disproportionate to the risks to the individual's privacy in the case in question;</p> <p>(ii) the information should not be disclosed due to legal or security reasons or to protect confidential commercial information; or</p> <p>(iii) the information privacy of persons other than the individual would be violated.</p> <p>If a request under (a) or (b) or a challenge under (c) is denied, the individual should be provided with reasons why and be able to challenge such denial.</p>		<p>parties may be adversely affected.</p> <p>3. Articles 11(1) and (2) stipulate that a government or non-government agency shall ensure the accuracy of personal data in its possession and correct or supplement such data on its own initiative or upon the request of data subjects. In the event of a dispute regarding the accuracy of the personal data, the government or non-government agency shall, on its own initiative or upon the request of the data subject, cease processing or using the personal data, unless the processing or use is either necessary for the performance of an official or business duty, or has been agreed to by the data subject in writing, and the dispute has been recorded.</p> <p>4. In addition, if any failure to correct or supplement any personal data is attributable to a government or non-government agency, the government or non-government agency shall notify the persons who have been provided with such personal data after the correction or supplement is</p>		

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			made (article 11(5) of the PDPA).		
9	<p>IX Accountability (Ref. Para. 26) A personal information controller should be accountable for complying with measures that give effect to the Principles stated above. When personal information is to be transferred to another person or organization, whether domestically or internationally, the personal information controller should obtain the consent of the individual or exercise due diligence and take reasonable steps to ensure that the recipient person or organization will protect the information consistently with these Principles.</p>	<p>The Personal Data Protection Act (PDPA), available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050021</p> <p>The Enforcement Rules of the Personal Data Protection Act, available at: https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0050022</p>	<ol style="list-style-type: none"> Article 4 of the PDPA stipulates that whoever is commissioned by a government agency or non-government agency to collect, process or use personal data shall be deemed to be acting on behalf of the commissioning agency to the extent that the PDPA applies. Moreover, article 8 of the Enforcement Rules of the PDPA stipulates that when commissioning another to collect, process or use personal data, the commissioning agency shall properly supervise the commissioned agency, carry out regular inspections to verify the commissioned agency's performance of the engagement contract and document the findings of such inspections. 	<p>The collection, processing and use of personal data that the commissioned agency carries out on behalf of the commissioning agency will be deemed as the activities conducted by the commissioning agency itself. Accordingly, if the commissioned agency violates the PDPA when carrying out the activities on behalf the commissioning agency, the commissioning agency shall be responsible for the violations.</p>	

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C	Network point of contact arrangements ⁵	Contact details will be made available to APEC members through the APEC Secretariat			

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⁵ Please provide contact details such as name and/or title, address, telephone and email contacts. This information will not be published but will be made available to economies.