

ENFORCEMENT RULES OF TAIWAN'S PERSONAL INFORMATION PROTECTION ACT

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This is an unofficial English translation prepared by Eiger Law of the Enforcement Rules of the Personal Information Protection Act (amended) announced by the Ministry of Justice on 26 September 2012.

The original Chinese version may be found at:

<http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=I0050022>

Article 1 The Enforcement Rules are enacted in accordance with Article 55 of the Personal Data Protection Act (hereinafter referred as the “Act”).

Article 2 Individual referred to in the Act means currently living natural person.

Article 3 Identifying personal information in an indirect manner referred to under Subparagraph 1, Article 2, means that the government agency or non-government agency who keep the personal information cannot identify the identification of a specific person by the information alone and must be done in comparison, combination, or connection with other information.

Article 4 Personal information in medical records referred to under Subparagraph 1, Article 2 of the Act means the information listed in Paragraph 2, Article 67 of the Medical Care Act.

Personal medical information referred to under Subparagraph 1, Article 2 of the Act means the personal information, including medical records above, produced by physicians or other medical practitioners, pursuant to visitation, diagnosis and treatment, for the purpose of treating, correcting or preventing human illness, injury or handicap, or any prescription, drug use, method use or disposition for the purpose of treatment based on the results of visitation or diagnosis.

Genomic personal information referred to under Subparagraph 1, Article 2 of the Act means a section of genetic unit information composed of DNA and with specific biological control functions.

Sex life personal information referred to under Subparagraph 1, Article 2 of the Act means personal information about sexual orientation or sexual habits.

Personal information of health examination referred to under Subparagraph 1, Article 2 of the Act means information generated from medical visits for persons with purposes other than diagnosis or treatment for a specific illness.

Personal information of criminal records referred to under Subparagraph 1, Article 2 of the Act means records of deferred prosecution, non-prosecution under the authorities or a confirmed crime through a court judgment.

Article 5 Personal information files referred to in Subparagraph 2, Article 2 of the Act

includes back-up files.

Article 6 Deletion referred to under Subparagraph 4, Article 2 of the Act means deleting stored personal information from personal information files.

Internal transmission referred to under Subparagraph 4, Article 2 of the Act means information transmission within a government agency or non-government agency itself.

Article 7 Any juridical person, organization or natural person engaged by another person to collect, process or use information shall perform in accordance with the provisions applicable to the engaging principal.

Article 8 If a principal engages another person to collect, process or use all or part of personal information, the principal shall exercise appropriate supervision over the agent.

The supervision under the previous Paragraph shall include at least the following:

1. Expected scope of collection, process or use of personal information, type, specific purpose and period.
2. Required measures to be undertaken by the agent in accordance with Paragraph 2, Article 12.
3. If there is a sub-agent, the agreed sub-agent.
4. The matters to be notified to the principal and remedy measures to be undertaken in case of violation of personal information protection legislation or provision of engagement contract by the agent or its employee.
5. Matters for which the principal gave reservation instructions to the agent.
6. The return of media in which personal information is stored and the deletion of stored personal information held by the agent, upon termination or cancellation of engagement of relationship.

With regard to the supervision under Paragraph 1, the principal shall regularly confirm the performance status of the agent and document the confirmation results.

The agent shall only collect, process or use personal information within the scope of the principal's instructions. If the agent deems that the principal's instructions violate the Act or any other personal information protection statutes or administrative regulations published in accordance with the statutes, it shall immediately notify the principal.

Article 9 The act referred to under Subparagraph 1, Paragraph 1, Article 6, Subparagraph 1, Paragraph 2, Article 8, Subparagraph 1, Paragraph 1, Article 16, Subparagraph 1, Paragraph 1, Article 19, Subparagraph 1, Paragraph 1, Article 20 of the Act means statute or administrative regulations having explicit and specific statutory authorization.

- Article 10 The legal duty referred to under Subparagraph 2, Paragraph 1, Article 6, Subparagraph 2 and 3, Paragraph 2, Article 8, Subparagraph 2, Article 10, Subparagraph 1, Article 15, Article 16 of the Act means the duty of a government agency in accordance with the laws and regulations below:
1. statute or administrative regulation having statutory authorization;
 2. self-government regulation;
 3. self-government ordinance authorized by a statute or a self-government regulation;
 4. regulation on the commissioning of matters authorized by a statute or a central government regulation.
- Article 11 The legal obligation referred to under Subparagraph 2, Paragraph 1, Article 6, Subparagraph 2, Paragraph 2, Article 8 of the Act means an obligation of a non-government agency in accordance with a statute or administrative regulation having explicit and specific statutory authorization.
- Article 12 The appropriate safety maintenance measures referred to under Subparagraph 2, Paragraph 1, Article 6, the safety maintenance matters referred to under Article 18, the appropriate safety measures referred to under Paragraph 1, Article 27 of the Act mean technical or organizational required measures undertaken by a government agency or non-government agency for the purpose of preventing theft, alteration, destruction, loss, or disclosure of personal information.
- The required measures in the previous Paragraph may include the following:
1. Deployment of management staff, with proper resources allocated;
 2. Definition of the scope of personal information;
 3. Risk assessment and management mechanisms for personal information;
 4. Incident prevention, reporting and response mechanisms;
 5. Internal management procedures for collection, processing and use of personal information;
 6. Information security management and staff management;
 7. Promotion and training of awareness;
 8. Equipment security management;
 9. Information security audit mechanisms;
 10. Safekeeping of usage records, tracking records and evidence;
 11. Overall continuous improvements for the safe maintenance of personal information.
- Article 13 A party's voluntary disclosure information referred to under Subparagraph 3, Paragraph 1, Article 6, Subparagraph 2, Paragraph 2, Article 9, Subparagraph 3, Paragraph 1, Article 19 of the Act means personal information that the party voluntarily discloses to an unidentified person or multiple identified persons.
- Personal information that has been legally publicized referred to under Subparagraph 3, Paragraph 1, Article 6, Subparagraph 2, Paragraph 2, Article 9, Subparagraph 3, Paragraph 1, Article 19 of the Act means personal information that has been rendered public through public display, public announcement, or

other legal manners in accordance with statute or administrative regulations having explicit and specific statutory authorizations.

- Article 14 With regard to the manners for expression of intent in writing referred to in Article 7 of the Act, it may be done by electronic record, pursuant to the Electronic Signatures Act.
- Article 15 If the independent expression of intent in writing pursuant to Paragraph 2, Article 7 of the Act is done in the same document as other expressions of intent, it shall be indicated in a suitable location for a party's awareness and subsequent confirmation and consent.
- Article 16 Notices provided under Articles 8, 9 and 54 of the Act shall be done orally, in writing, by telephone, text message, email, fax, electronic records or other appropriate manners which enable the Subject to know or to have the possibility of knowing.
- Article 17 Processed information or disclosing method being deidentification of a specific party referred to under Subparagraph 4 of Paragraph 2 of Article 9, Subparagraph 5 of the proviso of Article 16, Subparagraph 4 of Paragraph 1 of Article 19 and Subparagraph 5 of the proviso of Article 20 means the personal information is coded, anonymous, partially hidden or processed in another disclosure manner to be deidentification of specific individuals.
- Article 18 The major interests of a third person that may be affected, referred to under Subparagraph 3, Article 10 of the Act, means harmful to the life, health, freedom, property or other important interests of a third party.
- Article 19 When a party requests a correction or to supplement personal information with a government agency or non-government agency in accordance with Paragraph 1, Article 11 of the Act, a proper interpretation shall be provided.
- Article 20 Cease of specific purpose referred to under Paragraph 3, Article 11 of the Act means any of the following:
1. A government agency has been dissolved or reorganized and no longer has any division that handles the process.
 2. A non-government agency ceases business, is dissolved without any division that handles the process or has a change of business scope that is inconsistent with the original purpose of collection.
 3. The specific purpose has been achieved and there is no need to continue the processing or use.
 4. Other reasons proving that the specific purpose cannot be achieved or no longer exists.

- Article 21 Any of the following shall be deemed required for performing the duty or business under the proviso of Paragraph 3, Article 11 of the Act:
1. A retention period is provided by laws or contracts.
 2. There is reason to deem that the deletion will infringe upon a party's interest that should be protected.
 3. Other justification that deletion should not be performed.
- Article 22 Notice in an appropriate manner referred to in Article 12 of the Act means notice in time, via oral communication, writing, telephone, fax, electronic records or another manner allowing the party to know or making it possible for the party to know. However, if the cost is excessive, the internet, news media or other manner allowing public knowledge may be used in consideration of the technical feasibility and protection of the party's privacy.
- Notice to a party in accordance with Article 12 of the Act shall include the fact that the personal information has been infringed upon and the corresponding measures that have been undertaken.
- Article 23 When a government agency publicizes in accordance with Article 17 of the Act, it shall be done so within one month from the establishment of a personal information file. The same shall be applicable in case of alteration. The publication manner shall be specific and shall prevent unauthorized alteration.
- Other proper manners referred to under Article 17 of the Act mean newspaper, magazine, government gazette, electronic newsletter or other manner available for public viewing.
- Article 24 When a government agency maintains a personal information file, rules for personal information security maintenance shall be established.
- Article 25 Dedicated people referred to under Article 18 of the Act means personnel with a professional capability of management and maintenance of personal information files who can perform regular safety and maintenance work for files and information of the authority.
- To ensure that the dedicated person possesses the capability to perform safety and maintenance matters, the government agency shall perform or procure relevant professional training for the dedicated person.
- Article 26 Contract or quasi-contract relationship referred to under Subparagraph 2, Paragraph 1, Article 19 of the Act is not limited to those established after the implementation of the revision of the Act.
- Article 27 Contract relationship referred to under Subparagraph 2, Paragraph 1, Article 19 of

the Act means the contract itself and any act of contact, negotiation, communication, payment or receiving payment between the non-government agency and the party, in order to enforce the contract.

Quasi-contract relationship referred to under Subparagraph 2, Paragraph 1, Article 19 of the Act means any of the following:

1. Any act of contact or negotiation between the non-government agency and the party before entering into the contract for the purpose of preparing or negotiating the establishment of the contract or for the purpose of engaging in the transaction.
2. When the contract is invalid, rescinded, cancelled, terminated or ended following performance, the act of contact between the non-government agency and the party for the purpose of exercising the right, performing the obligation, or confirmation of the integrity of personal information.

- Article 28 Publicly available resources referred to under Subparagraph 7, Paragraph 1, Article 19 of the Act means channels to receive personal information, including mass media, internet, news, magazines, government gazettes, electronic newsletters or other manners which are available for the public to know or access personal information.
- Article 29 In performing inspection in accordance with Article 22 of the Act, the inspection authorities shall pay attention to the confidentiality and reputation of the inspected party.
- Article 30 In seizing or reproducing personal information or any file thereof that may be forfeited or that may serve as evidence in accordance with Paragraph 2, Article 22 of the Act, a receipt which specifies the name, quantity, owner, location and time shall be provided.
- After performing inspection in accordance with Paragraph 1 and 2, Article 22 of the Act, records shall be made.
- If the record under the previous Paragraph is prepared on site, it shall be reviewed and signed by the inspected party and a copy shall be delivered to the inspected party. If the inspected party refuses to sign, the reason shall be specified.
- If the record is prepared afterwards, it shall be delivered to the inspected party and the inspected party shall be informed that it may express its opinion within a certain deadline.
- Article 31 Public interest organization referred to under Paragraph 1, Article 52 of the Act means any public interest organization, juridical person and administrative entity established in accordance with the Civil Code or other laws, with the professional capability for personal information protection.
- Article 32 After the implementation of the amendment, personal information provided by

the party that has already been collected or processed before the implementation of the amendment may continue to be processed and used within the specific purpose in accordance with provisions of the Act in relation to personal information protection. Any use outside the specific purpose shall be in accordance with the provisions after implementation of the amendment.

Article 33 The implementation date for the revised provisions of these Enforcement Rules shall be determined by order of the Executive Yuan.