

Bills Committee on Personal Data (Privacy) (Amendment) Bill 2011

Proposed Areas of Study

To facilitate the Bills Committee to discuss the major policy proposals included in the Bill in a structured manner, this paper proposes the major areas of study for Members' consideration.

Policy proposals

- (1) Provision and use of personal data in direct marketing
- (2) Sale of personal data
- (3) Disclosure of personal data obtained without the data user's consent
- (4) Legal assistance to data subjects
- (5) Other proposals:
 - (a) Statutory powers, functions and liability of the Privacy Commissioner for Personal Data ("PCPD"), such as :
 - (i) additional ground for refusing to investigate;
 - (ii) time limit for responding to PCPD's inspection/ investigation report; and
 - (iii) circumstances for issue of enforcement notice
 - (b) Offences and sanctions, such as :
 - (i) repeated non-compliance with enforcement notices; and
 - (ii) repeated contravention of same requirements under the Personal Data (Privacy) Ordinance on same facts
 - (c) New exemptions, such as :
 - (i) provision of identity and location data on health grounds;
 - (ii) transfer of personal data of minors relevant to parental care and guardianship;
 - (iii) transfer of personal data in merger, acquisition or transfer of businesses; and
 - (iv) handling of personal data in emergency situations
 - (d) Rights of data subjects, such as :
 - (i) empowering "relevant person" to give prescribed consent to change of use of personal data

- (e) Rights and obligations of data users, such as :
 - (i) response to data access requests in writing and within 40 days;
 - (ii) duty to prevent loss of personal data; and
 - (iii) regulation of data processors
- (f) Miscellaneous proposed amendments; such as :
 - (i) expanding and definition of “relevant person”; and
 - (ii) extending the time limit for laying information for prosecution

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