PUBLIC CONSULTATION PAPER NO. 4/2025 :

PROPOSED AMENDMENTS TO THE PERSONAL DATA PROTECTION REGULATIONS 2013 [P.U.A. 335/2013]

Start Date : 22 August 2025
End Date : 8 September 2025

PART 1: INTRODUCTION AND BACKGROUND

[A] Introduction

This public consultation paper aims to obtain feedback from stakeholders and the public regarding the proposed amendments to the Personal Data Protection Regulations 2013 [P.U. (A) 335/2013]. P.U. (A) 335/2013 is a subsidiary legislation that outlines the obligations of Data Controller under the seven (7) Personal Data Protection Principles. It also contains provisions for enforcement notices and inspections, which empower the Commissioner to enforce compliance with these regulations.

In line with the amendments to the Personal Data Protection Act 2010 [Act 709], the subsidiary legislation P.U.(A) 335/2013 needs to be amended to ensure alignment with the latest amendments and to support the implementation of the updated law.

[B] Background of the Amendments to the Personal Data Protection Act 2010 [Act 709]

The amendments to Act 709 introduce several new provisions to ensure that the Act aligns with the advancement of digital technology and global personal data protection laws. The key amendments introduced include:

a) replacing the term “data user” with “data controller”;

b) requiring data controller and data processor to appoint a data protection officer to ensure compliance with Act 709;

c) mandating data controller to notify the Personal Data Protection Commissioner of any data breach incidents;

d) enabling data subject to request the transfer of his personal data from one data controller to another;

e) abolishing the requirement to gazette permitted places for the transfer of any personal data outside Malaysia;

f) imposing obligations and responsibilities on data processor to comply with the Security Principle under the Personal Data Protection Principles; and

g) increasing the penalty rates for violations of the Personal Data Protection Principles.

[C] Personal Data Protection Standard

Subregulation 6(2), regulations 7 and 8 of P.U.(A) 335/2013 stipulate that data controller processing personal data must comply with the prescribed security, retention and integrity standard.

Security Principle

6. (1) The data user shall develop and implement a security policy for the purposes of section 9 of the Act.

(2) The data user shall ensure the security policy referred to in subregulation (1) complies with the security standard prescribed from time to time by the Commissioner.

(3) The data user shall ensure that the security standard in the processing of personal data be complied with by any data processor that carry out the processing of the personal data on behalf of the data user.

Retention Principle

7. For the purposes of section 10 of the Act, the personal data of a data subject shall be retained in accordance with the retention standard prescribed from time to time by the Commissioner.

Data Integrity Principle

8. For the purposes of section 11 of this Act, the data user shall process the personal data in accordance with the data integrity standard set out from time to time by the Commissioner.

To ensure compliance with this principle, the Personal Data Protection Commissioner issued the Personal Data Protection Standard in 2015 (“Standard”), which sets out the minimum requirements for the handling of personal data in both electronic and non-electronic forms.

With the rapid advancement in technology and the growing threats to data security, the Standard needs to be revised to ensure a higher level of protection that is relevant to the current digital environment.

The amendments to this Standard aim to clarify the responsibilities of data controller and data processor, as well as to introduce additional measures to strengthen the security and integrity of personal data. The proposed amendments to the Standard include:

a) introducing stricter security measures such as more detailed access controls, enhanced system protection against external threats and the establishment of a data breach incident response plan, including measures for securing personal data transfers;

b) strengthening data storage management through the establishment of a clear data retention policy and disposal schedule, as well as the use of secure data destruction methods;

c) improving data integrity measures, including procedures for correcting inaccurate data and implementing regular monitoring.

For the purpose of developing the Personal Data Protection Standard 2025, JPDP has issued a public consultation paper on the proposed

amendments. **These amendments will be read together with the amendments to P.U. (A) 335/2013.**

PART 2: PROPOSED AMENDMENTS TO THE PERSONAL DATA PROTECTION REGULATIONS 2013 [P.U.(A) 335/2013]

The proposed draft amendments to P.U.(A) 335/2013 are intended to ensure that the regulations are aligned with the latest amendments to Act 709 and effectively address current needs in personal data protection. The proposed amendments to P.U.(A) 335/2013 are provided in **Appendix 1**.

PART 3: CONSULTATION QUESTIONS

JPDP welcomes your feedback on the proposed amendments. Please consider the following questions when submitting your feedback:

1. Are the proposed amendments outlined above sufficient to achieve the objective of enhancing personal data protection in Malaysia?

2. Are there any existing provisions in P.U.(A) 335/2013 that should be amended or improved but were not mentioned above? Please provide justifications.

3. What potential challenges or implications could arise from these proposed amendments for organisations (data controller / data processor) or data subjects?

4. Do you have any specific suggestions for draft provisions relating to the proposed amendments?

5. Are there any other issues related to personal data protection under P.U.(A) 335/2013 that should be addressed through amendments?

All feedback received will be analysed and taken into consideration in the drafting process of the amended P.U.(A) 335/2013. Your cooperation is greatly appreciated to ensure that Malaysia's personal data protection framework remains relevant and effective.

APPENDIX 1

PROPOSED AMENDMENTS TO THE PERSONAL DATA PROTECTION REGULATIONS 2013 [P.U.(A) 335/2013]

NO.	ITEM	INTRODUCTION	PROPOSED AMENDMENT TO P.U.(A) 335/2013	JUSTIFICATION FOR AMENDMENT
			PART I PRELIMINARY	
1	***Interpretation***	*The Personal Data Protection Act 2010 [Act 709] was enacted to regulate the processing of personal data in commercial transactions. The Personal Data Protection Regulations 2013 [P.U.(A) 335/2013] serve as subsidiary legislation that elaborates on the implementation of the Act.* *To ensure that the legal framework remains relevant, clear and effective, it is necessary to introduce new definitions and amend existing ones. These amendments are intended to provide greater*	*The proposed amendments focus on the introduction of new definitions and the amendment of existing definitions.* ***i. Amendments to Existing Definitions*** *Proposed amendments:* *a.* ***"inspection officer"*** *means ~~an officer~~ Deputy Commissioner and Assistant Commissioner appointed by the Commissioner under*	*The amendment to the definition of "inspection officer" expands its scope to include officers appointed under section 50 (namely, the Deputy Commissioner and Assistant Commissioner) as well as employees engaged under section 51 of Act 709, in order to provide greater flexibility in appointments and to strengthen enforcement.*

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		clarity, enhance consistency, and support more effective enforcement of Act 709.	*section 50 of the Act or any officer and servant employed by the Commissioner under section 51 of the Act for the purposes of carrying out an inspection under section 101 of the Act;*	
			b. ***"standard"*** *means a ~~minimum requirement issued~~ measures determined by the Commissioner, that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the*	*This amendment seeks to strengthen the definition of "standard" by replacing the phrase "minimum requirements" with the term "determined." The purpose of this amendment is to emphasise that the standards issued by the Commissioner constitute binding rules for effective compliance rather*

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			achievement of the optimum degree of order in a given context.	*than merely minimum requirements.* *The amendment further supports a shift towards a more outcome-based approach, thereby providing organisations with greater flexibility in achieving data protection objectives. Under the revised definition, the standards will prescribe both the minimum measures and the expected outcomes, particularly in relation to the large-scale processing of personal data.*
			ii. *Introduction of New Definitions* *a. "business contact information" means*	*This amendment introduces the definition of "business*

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			an individual's name, position name or title, business telephone number, business address, business e-mail address or business fax number and any other similar information about the individual, not provided by the individual solely for his or her personal purposes.	*contact information" to distinguish data used in a business context from personal data protected under Act 709. The objective of this amendment is to prevent confusion and to facilitate compliance by data controllers.*
			b. "personal data protection notice" means notice in writing that the Data Controller is required to provide to Data Subject in	*This amendment introduces the definition of "personal data protection notice" to clarify the meaning of the written notice that a data controller is required to provide to a data subject in*

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			compliance with section 7 of the Act.	*compliance with section 7 of Act 709.*
PART II PERSONAL DATA PROTECTION PRINCIPLES				
GENERAL PRINCIPLE				
2	***Consent of data subject***	*One of the main principles under Act 709 is the General Principle, which requires data controller to process personal data only if the consent of the data subject has been obtained.*	*The proposed amendments relating to the General Principle focus on several key aspects, including:* *a.* ***Terminology****: Aligning the terminology used in the Regulations with the amendments to Act 709, specifically the change from "data user" to "data controller."* *b.* ***Data Subject Consent****: Providing clearer guidance on how to obtain valid consent from data subject.*	*The main objectives of the amendments regarding* ***"data subject consent"*** *under the* ***General Principle*** *are to:* *a.* ***Strengthen protection****: Enhance the protection of personal data by establishing stricter procedures, particularly with respect to the timing of when consent must be obtained and the obligation to provide notice to data subject.*

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			The amendments emphasize that consent must be obtained before personal data is processed. c. ***Recognition of Legal Exceptions**: Introducing provisions that recognize personal data may be processed without consent in certain situations, in line with the exceptions permitted under the Act.* d. ***Notice and Choice Obligation**: Requiring data controller to inform data subject about the collection and processing of personal data through a personal data protection notice, consistent with the Notice and Choice Principle.*	b. ***Increase clarity**: Provide clear guidance on the process of obtaining consent and issuing notices to avoid ambiguity and to facilitate compliance by data controller.* c. ***Align with international standards**: Ensure that Malaysia's approach to consent and data subject notice is consistent with international best practices.*

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			e. ***Verification of Consent***: *stablishing requirements for data controller to take reasonable verification steps when obtaining consent from parents, guardians, or individuals with responsibility over the data subject.*	
NOTICE AND CHOICE PRINCIPLE				
3	***Details of data ~~user~~ controller***	*The Notice and Choice Principle requires data controller to provide a written notice in both the Malay and English languages informing the data subject of the purpose for which the personal data is being collected and to give the data subject the choice to consent or*	*The proposed amendment to the Notice and Choice Principle requires the data controller to display the business contact information of the appointed Data Protection Officer (DPO) or the individual responsible for handling matters related to personal data.*	*This amendment aims to require the data controller to display the business contact information of the appointed Data Protection Officer or another individual responsible for handling matters related to the processing of personal data and the rights of data subject*

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		refuse to provide such personal data.		*through the personal data protection notice or other channels that allow the data subject to contact the data controller.* *This will facilitate data subject in reaching the relevant party to seek clarification, lodge complaints or exercise their rights, thereby enhancing transparency and accessibility for data subject.*
DISCLOSURE PRINCIPLE				
4	***List of disclosure***	*Under the Disclosure Principle (Section 8) of Act 709, data controller shall not without the consent of the data subject, disclose their personal data to any other party. Disclosure is only permitted where it is*	*The existing provision is amended to replace the term "Data User" with "Data Controller."*	*This amendment aims to replace the term "Data User" with "Data Controller" in line with the latest amendments to Act 709.*

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		allowed by law or where it is for the original purpose for which the data was collected.		
SECURITY PRINCIPLE				
5	***Security policy***	*The Security Principle requires the data controller when processing personal data, to take practical measures to protect such data against any threats. These threats include loss, misuse, alteration, unauthorized access or disclosure, modification or destruction.*	*The proposed amendments relating to the security policy under the* ***Security Principle*** *focus on several key aspects, including:* a. ***Terminology****: Aligning the terminology used in the Regulations with the amendments to Act 709, specifically the change from "data user" to "data controller."* b. ***Expanded Obligation****: The obligation to develop and implement a security*	*This amendment aims to introduce the requirement for data breach management within the security policy to ensure that prompt and effective actions can be taken in the event of a data breach incident.*

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			policy is now extended to data processor, not only data controller. c. ***Data Breach Management**: The amendments explicitly require the security policy to include procedures for managing data breaches, making it a mandatory component of the policy.*	
6	***Contractual Obligation***	*In addition to the direct responsibility of the data controller to protect personal data, the Security Principle will also be extended to data processors through contractual obligations.* *The amendment requires data controllers to enter into a written*	*The proposed amendments to the Security Principle focus on several key aspects, including:* *a.* ***Contractual Obligation:** Requiring the data controller to enter into a written contract with the data processor when the processing of personal data*	*This provision aims to ensure that a clear contract is established between the Data Controller and the Data Processor, covering :* *i. the purpose of processing;* *ii. the categories of data;*

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		agreement with data processors that clearly specifies the security measures to be implemented by the latter. In this way, data controllers must ensure that data processors comply with the same security standards as prescribed under the Act.	*is carried out by a third party.* b. ***Clear Contractual Terms:*** *The contract must include essential details such as:* *i. the subject matter, duration, nature, and purpose of the data processing;* *ii. the types of personal data being processed; and* *iii. the security measures to be implemented; and* *iv. the obligations of the data processor as*	*iii. the security measures; and* *iv. the rights and obligations of both parties.* *It is intended to ensure compliance with Act 709 and to enhance accountability in the management of personal data.*

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			well as the rights of the data controller.	
RETENTION PRINCIPLE				
7	***Retention standard***	*Under the Retention Principle (Section 10 of Act 709), data controllers must not retain personal data for longer than is necessary and must ensure that such personal data is permanently destroyed or deleted once it is no longer required for the purpose for which it was processed.* *P.U.(A) 335/2013 elaborates on the implementation of this Principle by stipulating that data processing must comply with the retention standards prescribed from time to time by the Commissioner.*	*The proposed amendment relating to the Retention Principle involves the replacement of the term "Data User" with "Data Controller." In addition to this terminological change, compliance with the Retention Principle will be prescribed through the implementation of a revised Personal Data Protection Standard.* *The new Standard will strengthen data retention management by establishing requirements for retention policies, data disposal schedules, and the use of secure destruction methods. These*	*There are no changes to the existing provision. Compliance with the Retention Principle will instead be prescribed through amendments to the Personal Data Protection Standard to be issued by the Commissioner.*

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			measures will assist data controllers in fulfilling their obligations more effectively.	
			INTEGRITY PRINCIPLE	
8	***Data integrity standard***	*Under the Data Integrity Principle (Section 11 of Act 709), data controllers are required to ensure that the personal data being processed is accurate, complete, not misleading, and up to date. P.U.(A) 335/2013 elaborates on the implementation of this Principle by stipulating that data processing must comply with the data integrity standards prescribed by the Commissioner from time to time.*	*The proposed amendment relating to the Principle of Data Integrity provides for the substitution of the term "Data User" with "Data Controller." In addition to this terminological change, compliance with the Principle of Data Integrity will be ensured through the implementation of the revised Personal Data Protection Standard.* *The revised Standard will strengthen the management of data integrity by prescribing requirements for procedures to*	*There are no changes to the existing provision. Instead, compliance with the Data Integrity Principle will be ensured through amendments to the Personal Data Protection Standard to be issued by the Commissioner.*

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			rectify inaccurate data and for the conduct of periodic monitoring. These measures are intended to assist data controllers in fulfilling their obligations more effectively.	
ACCESS PRINCIPLE				
9	***Access Principle***	*Under the Access Principle, every data subject has the right to access and correct their personal data held by the data controller. P.U.(A) 335/2013 prescribes the procedures for exercising this right, including the process for submitting a request, the grounds for refusal of a request to access data, and the procedures for accepting a request for data correction.*	*The existing provision under the Access Principle is amended to replace the term "data user" with "data controller."*	*This amendment seeks to replace the term "data user" with "data controller," in line with the recent amendments to Act 709 to ensure consistency of terminology throughout the legislation.*

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			PENALTY	
10	***Penalty***	*Penalties are an essential element of the legal framework to ensure compliance with the provisions of the law. P.U.(A) 335/2013 was enacted under the authority of Section 143 of Act 709, which empowers the making of regulations prescribing any act or omission in contravention of the regulations as an offence. This section also permits the imposition of penalties in the form of a fine not exceeding two hundred and fifty thousand ringgit, imprisonment for a term not exceeding two years, or both. Accordingly, the proposed amendment seeks to streamline the existing penalty provisions and extend liability to data processors.*	*The proposed amendments relating to penalties focus on several key aspects, including:* a. ***Aligning terminology and references****: The amendments align the terminology from "data user" to "data controller" and revise the legal reference from "subregulation 3(1)" to "regulation 3" to encompass the entire provision relating to breaches of the General Principle.* b. ***Expanding liability and accountability****: The amendments introduce a new provision that places*	*The amendment from "subregulation 3(1)" to "subregulation 3" is intended to broaden the scope of enforcement by incorporating the entire content of subregulation 3 relating to breaches of the General Principle. This ensures that all obligations and prohibitions under the principle are subject to enforcement action if violated, thereby strengthening both the effectiveness of enforcement and the level of compliance with Act 709.*

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			direct liability on data processors. Data processors may be subject to the same penalties if they breach the Security Principle. c. ***Retaining the penalty rate**: The existing penalty rate, namely a fine not exceeding two hundred and fifty thousand ringgit, imprisonment for a term not exceeding two years, or both, is maintained for both data controllers and data processors.*	
			(2) Any Data Processor who contravenes regulation 6 commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty	*This provision is in line with the amendments to Act 709, which impose obligations on data processors under the Security Principle to ensure*

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			thousand ringgit or imprisonment for a term not exceeding two years or to both.	*effective compliance and enforcement.*
PART III INSPECTION				
11	***Inspection of the personal data system***	*Inspection of the Personal Data Protection System is one of the key enforcement mechanisms under Act 709.* *Pursuant to section 101 of Act 709, the Commissioner or an inspection officer is empowered to carry out inspections to ensure compliance with the provisions of the Act.* *The findings obtained from such inspections are important for the Commissioner in promoting compliance with the Act, particularly in relation to the*	*The proposed amendments relating to the **Inspection of the Personal Data Protection System** focus on several key aspects, including:* a. ***Terminology**: aligning the terms used in the Regulations with the amendments to Act 709, particularly the change in terminology from "data user" to "data controller";* b. ***Inspection obligations for data processor**: clarifying and reinforcing inspection*	The main purpose of this amendment is to streamline and strengthen the inspection powers under Act 709, thereby making them clearer and more effective in the current digital environment. The amendment also aligns the terminology from "data user" to "data controller" to ensure consistency with the amendments to Act 709. In addition, the amendment expands and clarifies the scope of information that may be requested during

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		Personal Data Protection Principles. *In this regard, P.U.(A) 335/2013 sets out the requirements relating to inspection notices issued by the Commissioner as well as the types of documents, records and information that may be requested during the course of an inspection.* *The proposed amendments to the inspection provisions seek to streamline and strengthen inspection powers, thereby making them clearer and more effective in the current digital environment.*	*obligations in relation to data processors, especially with respect to the security policies that they are required to develop, in line with the amendments to Act 709 which impose obligations on data processors under the Security Principle; and* c. ***Scope of inspection powers**: broadening and clarifying the scope of information that may be requested during inspections by explicitly including "documents, records or other information relating to personal data processing," thereby providing stronger authority for the Commissioner and*	inspections, thus providing stronger authority to the Commissioner and inspection officers to obtain the information necessary to make recommendations to the data controller under inspection. Furthermore, the amendment reinforces the inspection obligations imposed on data processors, particularly in relation to the security policies that they are required to develop and implement.

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			inspection officers to obtain the information necessary to make recommendations to the data controller under inspection.	
PART IV ENFORCEMENT NOTICE				
12	***Enforcement notice***	*An enforcement notice is an important instrument issued by the Commissioner under section 108 of Act 709 to ensure compliance with the provisions of the Act. Such a notice specifies the steps that must be taken by a data controller to remedy any breach.* *The data controller is required to implement the specified steps within the timeframe stated in the notice. This mechanism is crucial to ensure that data*	*The existing provision is maintained.*	

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		breaches are addressed effectively and promptly, thereby strengthening the protection of the personal data of data subjects.		