

Personal Data Protection Bill - Indonesia

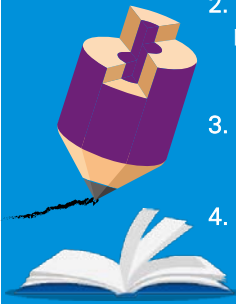


All you need to know to track your compliance

The Personal Data Protection Bill is the draft law to regulate the personal data processing in Republic of Indonesia. When this Law comes into force, the party involved in Personal Data processing, must adjust to the processing requirements of this Law no later than 2 years since this law is promulgated.



Key Highlights



- Explicit Approval** : Controller to take explicit approval for personal data (both general and specific) | processing from the data owner.
- Visual data processing**: Use of visual data processing devices such as CCTV is prohibited in public places and can only be used when accompanied by a notice and where such processing does not identify the individual.
- Data subject request** responding timelines: Right to access(3 days), withdraw approval (3 days), data rectification (1 day) and restrict processing (2 days)", have been separately called out in the Bill with respective timelines for the controller.
- Breach Notification**: Controller to notify the data owner and the Minister within 3 days and provide public notice in case of impact on public interests.

Personal Data



Any data about someone who is identified or can be identified separately or combined with other information, both directly and indirectly through electronic and/or non-electronic systems

Attributes

General: Full name, Citizenship, Gender, Religion and/or personal data used to identify someone

Specific: Financial data, Health data, Life/Sexual orientation, Biometric data Genetic data, Political views, Children's data, Criminal Record



Applicability



- Protects personal data, whether processed in part or in whole by way **electronic and manual**, where each sector can apply Personal Data protection according to sector characteristics concerned.
- Applies to every person, public body, and organizations / institutions carrying out legal actions, regulated in this Law, both within and outside the jurisdiction of Republic of Indonesia:



- having **legal consequences** in the jurisdiction, and/or
- concerns data owner (Indonesian citizen) **outside the jurisdiction** of the Republic of Indonesia.

Key Roles



Processing

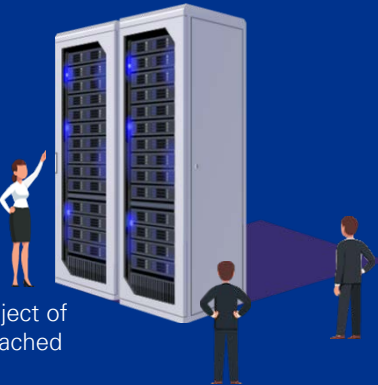
It includes:

- acquisition and collection;
- processing and analyzing;
- storage;
- repairs and updates;
- appearance, announcement, transfer, dissemination, or disclosure; and/or
- removal or annihilation.

Owner: an individual as the subject of data who has Personal Data attached to him/her.

Data Controller: a party that determines the purpose and exercise control over the processing of Personal Data.

Data Processor: Data Processor means a party that processes personal data on behalf of the Controller of Personal Data



Data Owner Rights:



The Bill grants 11 Rights to data owner including Right to access, choose, be informed, complete data, to withdraw approval, data rectification, restrict processing, object against processing, erasure of data and to sue.



Data subject requests to be responded within specified timelines

Demonstrating Compliance



- Track record of processing activities
- Record of explicit approval
- Maintain evidence for compliance with data owner's request



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Non-Compliance



For Individuals

Depending on the type of intentional and unlawful processing:

- Penalties ranging from **20 Billion Rp to 70 Billion**; Or
- Imprisonment ranging from **2 to 7 years**.

For Corporations

Three times of maximum criminal penalties can be imposed **3x70 Billion Rupiah**



Additional Penalties:

- Confiscation of profits and/or assets
- Freezing of all or part of the corporation's business
- Permanent prohibition of certain actions
- Closure of all or part of a place of business and / or activity

Cross-Border Data Transfer



- Controller may transfer personal data outside the jurisdiction of the Republic of Indonesia based on any one of the criteria:
- The rate of data protection is equal or higher than the bill.
- Contract between the personal data controllers
- International agreements exists between countries
- Obtain explicit approval from data owner



Obligations of Data Controller



- Obtain explicit consent and maintain log of consent
- Supervise processor involved in processing
- Ensure processing is inline with consented purpose and maintain record of processing
- Breach notification to data owner and the Minister
- Accountability for processing activities in accordance with the draft law

Obligations of Data Processors:



- Comply with the Bill's requirements and instructions from the controller.
- Maintain confidentiality, accuracy and consistency of personal data.
- Maintain Record of Processing.
- Prevent unauthorized processing and access to personal data in invalid manner.
- Supervise every party involved in processing.



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