

Technology, Media & Telecommunications

In Containing COVID-19 and Complying with the PDPA: Practical Tips

Introduction

The coronavirus disease 2019 (“**COVID-19**”) was first reported from Wuhan, China in December 2019, and has been characterised as a pandemic by WHO (World Health Organization) due to the alarming levels of spread and severity of the virus. Given the increased number of cases of COVID-19 in Singapore, the Ministry of Health (“**MOH**”) had on 7 February 2020 issued a statement to raise the risk assessment of COVID-19 from Disease Outbreak Response System Condition (DORSCON) Yellow to DORSCON Orange.

As part of DORSCON Orange, additional precautionary measures are to be introduced to minimise the risk of further transmission of COVID-19 in the community. Particularly, MOH advised that all employers should require their employees to conduct daily health checks (including regular temperature-taking and checking for respiratory symptoms), and for workplaces to step up their business continuity plans. In response to this, organisations have also started implementing other measures, including instituting policies to reduce face-to-face business meetings, and requiring visitors and employees to fill in health declaration forms to enable ease of contact tracing.

COVID-19 and the Collection of Personal Data

When implementing these precautionary measures, organisations should be aware that large amounts of personal data may be amassed, and hence should pay particular attention in complying with the Personal Data Protection Act 2012 (“**PDPA**”) when collecting, using, and disclosing these personal data.

The first question that comes to mind is usually the issue of consent. Generally, an individual's personal data may only be collected, used, and disclosed by an organisation upon the individual's consent to such collection, use, and disclosure.

However, for a situation relating to containment measures for COVID-19, it is likely that organisations may rely on the exempted circumstances set out in the Second, Third and Fourth Schedule of the PDPA for the collection, use, and disclosure of certain scopes of personal data without consent.

Against the backdrop of the Advisory Guidelines on the Personal Data Protection Act for NRIC and other National Identification Numbers (our write-up on this Advisory Guidelines is accessible [here](#)), the next question is then whether a national identification number (such as the National Registration Identification Card (NRIC) number or Foreign Identification Number (FIN)) falls within this “scope of personal data”. The Personal Data Protection Commission (“**PDPC**”) has released an “[Advisory on Collection of](#)

Technology, Media & Telecommunications

[Personal Data for COVID-19 Contact Tracing](#)” on 13 February 2020 (“**Advisory**”) to provide some guidance in this regard..

To summarise, the Advisory states the following:

- Organisations may collect visitors’ NRIC, FIN or passport numbers to accurately identify individuals for the purposes of contact tracing and other response measures in the event of an emergency.
- Personal data collected for the above may be collected, used, and disclosed without consent during this period to carry out contact tracing and other response measures.
- The PDPC has developed a notice which organisations may use to inform visitors that personal data would be collected during the outbreak of COVID-19 for contact tracing purposes (accessible [here](#)).
- As there has been an increased number of scammers impersonating the MOH’s contact tracing officer and requesting financial information of individuals, the public should ensure to verify the authenticity of such calls with the MOH hotline at +65 6325 9220 if anyone has doubts about the caller’s identity.

Types of personal data that may be collected on the visitor declaration form

The Advisory states that organisations can generally collect NRIC, FIN, or passport numbers for the purposes of contact tracing, in addition to the other personal data which may be necessary for contact tracing as well (such as the individual’s name, date and time of visit, and relevant contact details).

Relying on an exemption under the PDPA

The Advisory further clarifies that the collection, use, and disclosure without consent, under certain circumstances such as for contact tracing and other response measures in the event of emergencies, may fall within the “*necessary to respond to an emergency that threatens the life, health, or safety of the individual or another individual*” circumstance under the Second, Third, and Fourth Schedules of the PDPA.

Compliance with the PDPA

These are some of the operational risk areas which organisations should be aware of when implementing these containment measures:

Technology, Media & Telecommunications

- **Provision of consent for a particular purpose –**

Organisations should be aware that while the collection, use, and disclosure of an individual's personal data could arguably fall within circumstances under the Second, Third, and Fourth Schedules of the PDPA, these are generally limited to purposes of contact tracing and other response measures in an event of emergency. In this regard, these personal data should not be used for other purposes which do not fall within the aforementioned Schedules.

Organisations may also wish to refer to the [notice](#) developed by the PDPC which informs visitors that personal data would be collected during the outbreak of COVID-19 for contact tracing purposes.

- **Making reasonable security arrangements –**

Visitor declaration forms may be implemented electronically, or through the traditional “pen and paper” form. The protection obligation under the PDPA requires organisations to make reasonable security arrangements to protect the personal data collected in the visitor declaration forms. Hence, the usual practices relating to electronic or physical forms will apply with regard to protecting the visitor declaration forms.

Particularly, where organisations implement physical forms, staff should be aware of the operating procedures regarding the protection of these forms. For example, staff that handle these forms should not dispose these forms in a rubbish bin that is commonly accessible, and these forms should always be kept under lock and key.

- **Retaining personal data –**

Organisations will also have to comply with the retention obligation under the PDPA, namely to cease to retain the documents containing personal data as soon as it is reasonable to assume that the purpose for which the personal data was collected is no longer being served by retention of the personal data; and that the retention is no longer necessary for legal or business purposes.

While it is unclear how long the COVID-19 event will span, organisations should be aware that the personal data collected in these visitor declaration forms should generally not be kept in perpetuity.

Conclusion

In this climate where organisations have to react swiftly and efficiently to combat the spread of COVID-19, the Advisory is helpful in providing clear guidance by the PDPC with regard to the implementation of these containment measures. However, organisations should also not lose sight of the need to

Technology, Media & Telecommunications

continuously comply with the PDPA, especially in light of these new operational processes and workflows arising from these containment measures.

If you have any queries or wish to know what steps you can take to ensure that your organisation complies with the PDPA, please feel free to contact our team members below who will be happy to assist.

For more articles and updates from our teams across the region on COVID-19 and related legal issues, you may visit [Rajah & Tann Asia's COVID-19 Resource Centre](#). The site will be updated regularly with our latest Client Updates and information on future webinars on this topic.

Contacts



Rajesh Sreenivasan
Head, Technology, Media &
Telecommunications

T +65 6232 0751
rajesh@rajahtann.com



Steve Tan
Deputy Head, Technology, Media &
Telecommunications

T +65 6232 0786
steve.tan@rajahtann.com



Lionel Tan
Partner, Technology, Media &
Telecommunications

T +65 6232 0752
lionel.tan@rajahtann.com



Benjamin Cheong
Partner, Technology, Media &
Telecommunications

T +65 6232 0738
benjamin.cheong@rajahtann.com



Tanya Tang
Partner (Chief Economic and Policy
Advisor), Competition & Antitrust and
Trade; Technology, Media
& Telecommunications

T +65 6232 0298
tanya.tang@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
sg.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

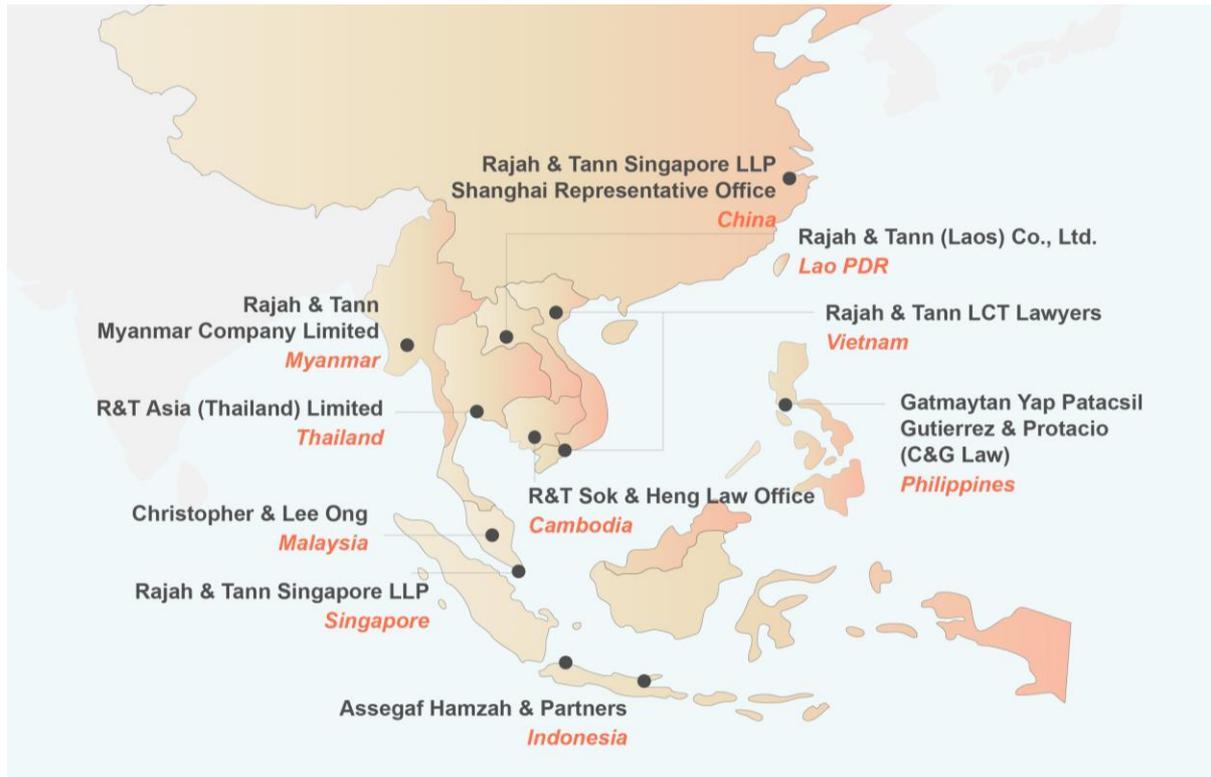
Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or e-mail Knowledge & Risk Management at eOASIS@rajahtann.com.