

Client Alert

May 2021

Full enforcement of PDPA is postponed to June 2022

On 8 May 2021, the Royal Decree on the Organizations and Businesses of which Personal Data Controllers are exempted from the Applicability of the Personal Data Protection Act, B.E. 2562 (2019) (No. 2) B.E. 2564 (2021) (the “**Royal Decree No. 2**”) was published in the Government Gazette.

The Royal Decree has now moved the effective date of the Personal Data Protection Act, B.E. 2562 (2019) (the “**PDPA**”) to 1 June 2022.

The PDPA is Thailand’s first consolidated law governing data protection in Thailand and was published on 27 May 2019. Initially, the PDPA provided for a one-year grace period, with the main operative provisions scheduled to become effective on 27 May 2020. However, in May 2020, the Cabinet approved the Royal Decree on the Organizations and Businesses of which Personal Data Controllers are exempted from the Applicability of the Personal Data Protection Act, B.E. 2562 (2019) B.E. 2563 (2020) (the “**Royal Decree No. 1**”), which postponed the effective date of the enforcement of the PDPA in Chapters 2, 3, 5 6, 7 and Section 95, on exempted organizations and businesses, until 31 May 2021, such that the PDPA was to take full effect on 1 June 2021. The exemptions are intended to cover all types of organizations and businesses which would otherwise be required to comply with the PDPA.

The announcement of Royal Decree No. 1 was apparently prompted by the COVID-19 pandemic which had adversely affected a number of organizations and businesses, who were not ready take the steps necessary to comply with the PDPA.

According to the Ministry of Digital Economy and Society (MDES), the ministry in charge of the PDPA, the primary reason for the Royal Decree No. 2 is that, as the COVID-19 pandemic continues to have a considerable impact on the Thai economy, representatives of the business sector (such as the Federation of Thai Industries, Thai Chamber of Commerce and various tourism associations), have expressed their unreadiness to comply with the PDPA and asked the government to help ease their financial burden during the pandemic. In addition, the MDES is still working on subordinate legislation required to be issued under the PDPA as well as guidelines for 7 specific industries, i.e. the tourism industry, health industry, education industry, retail and e-commerce industry, transport and logistics industry, real estate industry and the public sector. The one-year period will also allow further legislative enactments to be put in place before the effective date.

While the PDPA is not fully enforced, exempted organizations and businesses are still required to comply with the MDES’ Notification Re: Standards for Maintenance of Security of Personal Data (2020) (the “**Data Security Notification**”), which remains effective until 31 May 2021. It is expected that MDES will issue a new notification to extend the effect of the Data Security Notification in line with the deferred enforcement of the PDPA.

Contacts

Stephen Bennett
bennetts@HuntonAK.com

Wipanan Prasompluem
wipanan@HuntonAK.com