

[Official Emblem of Royal Command]

Personal Data Protection Act,
B.E. 2562 (2019)

His Majesty King Phra Poramenthra Ramathibodi Sisin Maha Vajiralongkorn
Phra Vajira Klao Chao Yu Hua

approved the Act on 24 May 2019,
the fourth year of the present reign.

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His Majesty King Phra Poramenthra Ramathibodi Sisin Maha Vajiralongkorn Phra Vajira Klao Chao Yu Hua hereby issues a royal command to proclaim that:

Whereas it is deemed appropriate to issue a law concerning personal data protection.

This Act contains certain provisions in relation to the restriction of right and freedom of a person, which Section 26, in conjunction with Section 32, Section 33 and Section 37 of the Constitution of the Kingdom of Thailand so permit by virtue of the law.

The rationale and necessity to restrict the rights and freedom of a person in accordance with this Act are to efficiently protect personal data and put in place effective remedial measures for data subjects whose rights to the protection of personal data are violated. The enactment of this Act complies with the criteria under Section 26 of the Constitution of the Kingdom of Thailand.

His Majesty hereby issues a royal command that the Act be enacted, with advice and consent from the National Legislative Assembly acting as the parliament, as per the following details.

Section 1 This Act is called the “Personal Data Protection Act, B.E. 2562

Section 2 This Act shall come into effect on the date following the date of the publication in the *Government Gazette*, except for the provisions of Chapter II, Chapter III, Chapter V, Chapter VI, Chapter VII, and Section 95, and Section 96, which shall come into effect after the lapse of a period of one year from

the date of its publication in the *Government Gazette*.

Section 3 In the event that there is any sector-specific law governing the protection of Personal Data in any manner, any business or any entity, the provisions of such law shall apply, except:

(1) for the provisions with respect to the collection, use, or disclosure of Personal Data and the provisions with respect to the rights of data subjects including relevant penalties, the provisions of this Act shall apply additionally, regardless of whether they are repetitious with the above specific law.

(2) for the provisions with respect to complaints, provisions granting power to the expert committee to issue an order to protect the data subject, and provisions with respect to the power and duties of the Competent Official, including relevant penalties, the provisions of this Act shall apply in the following circumstances:

(a) in the event that such law has no provision with respect to complaints;

(b) in the event that such law has the provisions giving the power to the competent official, who has the power to consider the complaints under such law, to issue an order to protect the data subject, but such power is not equal to the power of the expert committee under this Act; and either the competent official who has power under such law makes a request to the expert committee, or data subject files a complaint with the expert committee under this Act, as the case may be.

Section 4 This Act shall not apply to:

(1) the collection, use, or disclosure of the Personal Data by a Person who collects such Personal Data for personal benefit or household activity of such Person only;

(2) operations of public authorities having the duties to maintain state security, including financial security of the state or public safety, including the duties with respect to the prevention and suppression of money laundering, forensic science or cybersecurity;

(3) a Person or a juristic person who uses or discloses Personal Data that is collected only for the activities of mass media, fine arts, or literature, which are only in accordance with professional ethics or for public interest;

(4) The House of Representatives, the Senate, and the Parliament, including the committee appointed by the House of Representatives, the Senate, or the Parliament, which collect, use or disclose Personal Data in their consideration under the duties and power of the House of Representatives, the Senate, the Parliament or their committee, as the case may be;

(5) trial and adjudication of courts and work operations of officers in legal proceedings, legal execution, and deposit of property, including work operations in accordance with the criminal justice procedure;

(6) operations of data undertaken by a credit bureau company and its members, according to the law governing the operations of a credit bureau business.

The exceptions to apply all or parts of the provisions of this Act to any Data Controller in any manner, business or entity, in a similar manner to the Data Controller in paragraph one, or for any other public interest purpose, shall be promulgated in the form of the Royal Decree.

The Data Controller under paragraph one (2) (3) (4) (5) and (6) and the Data Controller of the entities that are exempted under the Royal Decree in accordance with paragraph two shall also put in place a security protection of Personal Data in accordance with the standard.

Section 5 This Act applies to the collection, use or disclosure of Personal Data by a Data Controller or a Data Processor that is in the Kingdom of Thailand, regardless of whether such collection, use or disclosure takes place in the Kingdom of Thailand or not.

In the event that a Data Controller or a Data Processor is outside the Kingdom of Thailand, this Act shall apply to the collection, use or disclosure of Personal Data of data subjects who are in the Kingdom of Thailand, where the activities of such Data Controller or Data Processor are the following activities:

- (1) the offering of goods or services to the data subjects who are in the Kingdom of Thailand, irrespective of whether the payment is made by the data subject; or
- (2) the monitoring of the data subject's behavior, where the behavior takes place in the Kingdom of Thailand.

Section 6 In this Act,

“**Personal Data**” means any information relating to a Person, which enables the identification of such Person, whether directly or indirectly, but not including the information of the deceased Persons in particular;

“**Data Controller**” means a Person or a juristic person having the power and duties to make decisions regarding the collection, use, or disclosure of the Personal Data;

“**Data Processor**” means a Person or a juristic person who operates in relation to the collection, use or disclosure of the Personal Data pursuant to the orders given by or on behalf of a Data Controller, whereby such Person or juristic person is not the Data Controller.

“**Person**” means a natural person;

“**Committee**” means the Personal Data Protection Committee;

“**Competent Official**” means any person appointed by the Minister to perform acts under this Act;

“**Office**” means the Office of the Personal Data Protection Committee;

“**Secretary-General**” means the Secretary-General of the Personal Data Protection Committee;

“**Minister**” means the Minister who is in charge under this Act.

Section 7 The Minister of Digital Economy and Society shall be in charge under this Act, and shall have the power to appoint the Competent Official to perform acts under this Act.

Chapter I

Personal Data Protection Committee

Section 8 There shall be a Personal Data Protection Committee, consisting of:

(1) a Chairperson who is selected and appointed from the persons having distinguished knowledge, skills, and experience in the field of Personal Data protection, consumer protection, information technology and communication, social science, law, health, finance, or any other field that must be relevant to, and useful for, the protection of Personal Data;

(2) the Permanent Secretary of the Ministry of Digital Economy and Society, shall be a Vice-Chairperson;

(3) directors by position as five members consisting of the Permanent Secretary of the Prime Minister Office, the Secretary-General of the Council of State, the Secretary-General of the Consumer Protection Board, the Director-General of the Rights and Liberties Protection Department, and the Attorney General;

(4) honorary directors as nine members, selected and appointed from the persons having distinguished knowledge, skills, and experience in the field of Personal Data protection, consumer protection, information technology and communication, social science, law, health, finance, or any other field that must be relevant to, and useful for, the protection of Personal Data.

The Secretary-General shall be a director and secretary, and the Secretary-General shall appoint assistant secretaries from the officials of the Office not exceeding two persons.

The rules and procedures on the selection of persons to be appointed as Chairperson and honorary directors, including the selection of the Chairperson and honorary director to replace the Chairperson and the honorary director who vacates office before the expiration of the term under Section 13, shall be as prescribed by the notification issued by the Cabinet by taking into account the transparency and fairness in the selection.

Section 9 There shall be a selection committee of eight members having the duty to select the appropriate persons who should be appointed as the Chairperson in Section 8(1) or the honorary director in Section 8(4), consisting of:

(1) two persons appointed by the Prime Minister;

(2) two persons appointed by the President of the Parliament;

(3) two persons appointed by the Ombudsman; and

(4) two persons appointed by the National Human Rights Commission.

In the event that the person having the appointment power in (2), (3), or (4) is unable to appoint members of the selection committee in his part within forty- five days from the date of notice from the Office, the Office shall nominate the persons to the Prime Minister to consider and appoint the appropriate persons to be the selection committee on behalf of such person having the appointment power.

The selection committee shall select one member to act as the Chairperson of the selection committee and another one member to act as the Secretary of the selection committee and the Office shall perform the duty as the administrative unit of the selection committee.

In the event that any member of the selection committee is vacant, a new member must be selected to replace such vacancy without delay. During the time that no new member has been selected, the selection committee shall consist of the existing members.

No member of the section committee shall be entitled to be nominated as the Chairperson in Section 8(1) or the honorary director in Section 8(4).

Section 10 In selecting the Chairperson in Section 8(1) or the honorary director in Section 8(4), the selection committee shall select the persons who have qualifications in Section 8(1) or Section 8(4) as the case may be, including having the qualifications and no prohibited characteristics under Section 11 and agree to be nominated for the selection in the same number as the number of Chairperson to be appointed in Section 8(1) or the number of the honorary director in to be appointed in Section 8(4).

After the total number of Chairperson in Section 8(1) or the honorary director in Section 8(4) have been selected, the selection committee shall submit the name of Chairperson in Section 8(1) or the honorary director in Section 8(4) together with the evidence of qualifications and no prohibited characteristics as well as the consent of such persons to the Cabinet for the appointment as the Chairperson in Section 8(1) or the honorary director in Section 8(4).

The Prime Minister shall publish names of the Chairperson in Section 8(1) or honorary directors in Section 8(4) who are appointed by the Cabinet in the *Government Gazette*.

Section 11 The Chairperson and the honorary director shall have the qualifications, and shall not be under the following prohibited characteristics:

- (1) being of Thai nationality;
- (2) not being bankrupt, or having been dishonestly bankrupt;
- (3) not being an incompetent or quasi-incompetent person;
- (4) not having been subjected to a final judgment to imprisonment

regardless of whether he or she has actually been imprisoned or not, except for an offence committed by negligence or a misdemeanor;

(5) not having been fired, dismissed or discharged from official service, a government agency or a state enterprise or private agency on the grounds of dishonest performance of duties or having committed severe wrongful conducts;

(6) not having been removed from office according to the law;

(7) not being a person holding political position, a member of local assembly or in a management position of local administration, a director or person holding position responsible for the management of political party, an adviser or officer of political party.

Section 12 The Chairperson and the honorary director shall hold office for a term of four years.

Upon the expiration of the term of office under paragraph one, if a new Chairperson or the honorary director has not yet been appointed, the Chairperson or the honorary director whose term of office has expired, shall be in office to continue to perform his or her duties until a new Chairperson or honorary director assumes his or her duties.

The Chairperson, or the honorary director, who vacates office upon the expiration of the term, may be reappointed, but shall not seat in his or her office for more than two terms.

Section 13 In addition to vacating office upon the expiration of the term under Section 12, the Chairperson and the honorary director vacates office upon:

(1) death;

(2) resignation;

(3) being dismissed by the Cabinet due to negligence in the performance of duty, disgraceful behavior, or incapability; or

(4) being disqualified, or under any of the prohibited characteristics under section 11.

In the case where the Chairperson or the honorary director vacates office before the expiration of the term, the person appointed to replace the vacant office shall be in office for the remaining term of office of the such vacated Chairperson or honorary director, except where the remaining term of office is less than ninety days, in which case the appointment of a new Chairperson or a new honorary director may not have to be made.

In the case where the Chairperson or the honorary director vacates office before the expiration of the term, the Committee shall consist of all existing members until a new Chairperson or a new honorary director is appointed, according to paragraph

two, and in the case where the Chairperson vacates office before the expiration of the term, the Vice-Chairperson shall temporarily perform duties of the Chairperson.

Section 14 At a meeting of the Committee, the presence of not less than one-half of all the members is required to constitute a quorum.

The Chairperson shall preside over the meeting. In the case where the Chairperson does not attend the meeting, or is unable to perform the duties, the Vice-Chairperson shall act as a chairperson of the meeting. In the case where the Chairperson and the Vice-Chairperson do not attend the meeting, or are unable to perform the duties, the attending members shall elect one member among themselves to be the chairperson of the meeting.

A decision of the meeting shall be made by a majority of votes. Each member shall have one vote. In case of equal votes, the chairperson of the meeting shall have an additional vote as the decisive vote.

The meetings of the Committee may be undertaken by electronic means, or any other means, as prescribed by the Committee.

Section 15 Any member who has a direct or indirect interest in the matter being considered in the meeting, shall inform the Committee of such interest prior to the meeting, and such member shall be prohibited from attending the meeting that is considering such matter.

Section 16 The Committee shall have the following duties and power:

(1) to make the master plan on the operation for the promotion and protection of Personal Data, which are coherent with national policies, national strategies and relevant national plans, in order to propose to the committee of the national digital economy and society, in accordance with the law governing development of the digital economy and society;

(2) to promote and support government agencies and the private sector in carrying out of activities in accordance with the master plan under (1), as well as to conduct the evaluation of the operation result of such master plan;

(3) to determine measures or guidelines of the operation in relation to Personal Data protection in order to comply with this Act;

(4) to issue notifications or rules for the execution of this Act;

(5) to announce and establish criteria for providing protection of Personal Data which is sent or transferred to a foreign country;

(6) to announce and establish guidance for the protection of Personal Data as guidelines with which the Data Controller and the Data Processor shall comply;

(7) to recommend the Cabinet on the enactment, or revision, of the

e x i s t i n g laws or rules applicable to the protection of Personal Data;

(8) to recommend the Cabinet on the enactment of the Royal Decree or reconsideration the suitability of this Act at least every five years;

(9) to provide advice or consultancy on any operation for the protection of Personal Data of the government agency and private agency, in acting in compliance with this Act;

(10) to interpret and render rulings with respect to the issues arising from the enforcement of this Act;

(11) to promote and support learning skills and understanding on the protection of Personal Data among the public;

(12) to promote and support research for the development of technology relating to the protection of Personal Data;

(13) to perform any other acts as prescribed by this Act, or other laws, which state the duties and power of the Committee.

Section 17 The Chairperson, the Vice-Chairperson, and Committee shall receive a meeting allowance and other benefits in accordance with the rules prescribed by the Cabinet.

The Chairperson of the sub-committees, the sub-committees, the Chairperson of the expert committee and expert committee appointed by the Committee shall receive a meeting allowance and other benefits in accordance with the rules prescribed by the Committee with approval of the Ministry of Finance.

Section 18 The Committee shall have the power to appoint sub-committees for considering or performing any act as prescribed by the Committee;

In the meeting of the sub-committee, the substances of Sections 14 and 15 shall apply *mutatis mutandis*.

Chapter II

Personal Data Protection

Part 1 General Provisions

Section 19 The Data Controller shall not collect, use, or disclose Personal Data, unless the data subject has given consent prior to or at the time of such collection, use, or disclosure, except the case where it is permitted to do so by the provisions of this Act or any other laws.

A request for consent shall be explicitly made in a written statement, or via electronic means, unless it cannot be done by its nature.

In requesting consent from the data subject, the Personal Data Controller shall also inform the purpose of the collection, use, or disclosure of the Personal Data. Such request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an easily accessible and intelligible form and statements, using clear and plain language, and does not deceive or mislead the data subject in respect to such purpose. In this regard, the Committee may require the Data Controller to request for data subject's consent in accordance with the form and statements as prescribed by the Committee.

In requesting consent from the data subject, the Data Controller shall utmost take into account that the data subject's consent is freely given. Also, the entering into the contract, including any provisions of the service shall not be a condition to obtaining consent for the collection, use, or disclosure of Personal Data that is not necessary or not related to such contract entering, including the provisions of the service.

The data subject may withdraw his or her consent at any time. The withdrawal of consent shall be as easy as to giving consent, unless there is a restriction of the withdrawal of consent by law, or the contract which gives benefits to the data subject. However, the withdrawal of consent shall not affect the collection, use, or disclosure of personal data that the data subject has already given consent legally under this Chapter.

In the event that the withdrawal of consent will affect the data subject in any manner, the Data Controller shall inform the data subject of such consequences of consent's withdrawal.

The request for the data subject's consent which is not in accordance with those prescribed in this Chapter shall have no binding effect on the data subject and shall no longer enable the Data Controller to collect, use, or disclose the Personal Data.

Section 20 In the event that the data subject is a minor who is not sui juris by marriage or has no capacity as a sui juris person under Section 27 of the Civil and Commercial Code, the request for the consent from such data subject shall be made as follows:

(1) In the event that the minor's giving of consent is not any act which the minor may be entitled to act alone as prescribed under Section 22, Section 23, or Section 24 of the Civil and Commercial Code, such act also requires consent of the holder of parental responsibility over the child.

(2) Where the minor is below the age of ten years, the consent shall be obtained from the holder of parental responsibility over the child.

In the event that the data subject is incompetent, the consent must be obtained from the custodian who has the power to act on behalf of the incompetent person.

In the event that the data subject is quasi-incompetent, the consent must be obtained from the curator who has the power to act on behalf of the quasi-incompetent person.

The provisions of paragraphs one, two and three shall apply *mutatis*

mutandis to the withdrawal of consent of the data subject, the notice given to the data subject, the exercise of rights of the data subject, the complaint of the data subject, and any other acts under this Act for the data subject who is a minor, an incompetent or quasi-incompetent person.

Section 21 The Data Controller shall collect, use, or disclose Personal Data according to the purpose notified to the data subject prior to or at the time of such collection.

The collection, use, or disclosure of Personal Data shall not be conducted in a manner that is different from the purpose previously notified to the data subject in accordance with paragraph one, unless:

- (1) the data subject has been informed of such new purpose, and the consent is obtained prior to the time of collection, use, or disclosure; or
- (2) it can be done by the provisions of this Act or in other laws.

Part 2

Personal Data Collection

Section 22 The collection of Personal Data shall be limited to the extent necessary in relation to the lawful purpose of the Data Controller.

Section 23 In collecting the Personal Data, the Data Controller shall inform the data subject, prior to or at the time of such collection, of the following details, except the case where the data subject already knows of such details:

- (1) the purpose of the collection for use or disclosure of the Personal Data, including the purpose which is permitted under Section 24 for the collection of Personal Data without the data subject's consent;
- (2) notification of the case where the data subject must provide his or her Personal Data for compliance with a legal obligation, or for the performance of the contract, or where it is necessary to provide the Personal Data for the purpose of entering into the contract, including notification of the possible effect where the data subject does not provide such Personal Data.
- (3) the Personal Data to be collected and the period for which the Personal Data will be retained. If it is not possible to specify the retention period, the expected data retention period according to the data retention standard shall be specified;
- (4) the categories of Persons or entities to whom the collected Personal Data may be disclosed;
- (5) information, address and the contact channel details of the Data Controller, where applicable, of the Data Controller's representative or data protection officer; and

(6) the rights of the data subject under Section 19 paragraph five, Section 30 paragraph one, Section 31 paragraph one, Section 32 paragraph one, Section 33 paragraph one, Section 34 paragraph one, Section 36 paragraph one, and Section 73 paragraph one.

Section 24 The Data Controller shall not collect Personal Data without the consent of the data subject, unless:

(1) it is for the achievement of the purpose relating to the preparation of the historical documents or the archives for public interest, or for the purpose relating to research or statistics, in which the suitable measures to safeguard the data subject's rights and freedoms are put in place and in accordance with the notification as prescribed by the Committee;

(2) it is for preventing or suppressing a danger to a Person's life, body or health;

(3) it is necessary for the performance of a contract to which the data subject is a party, or in order to take steps at the request of the data subject prior to entering into a contract;

(4) it is necessary for the performance of a task carried out in the public interest by the Data Controller, or it is necessary for the exercising of official authority vested in the Data Controller;

(5) it is necessary for legitimate interests of the Data Controller or any other Persons or juristic persons other than the Data Controller, except where such interests are overridden by the fundamental rights of the data subject of his or her Personal Data; or

(6) it is necessary for compliance with a law to which the Data Controller is subjected.

Section 25 The Data Controller shall not collect Personal Data from any other source, apart from the data subject directly, except where:

(1) the Data Controller has informed the data subject of the collection of Personal Data from other source without delay, but shall not exceed thirty days upon the date of such collection, and has obtained the consent from the data subject; or

(2) it is a collection of Personal Data which falls within the exceptions to request consent under section 24 or Section 26.

The provisions with respect to notice of the new purpose in Section 21, and the notice of information details in Section 23 shall apply *mutatis mutandis* to the collection of the Personal Data which requires consent in paragraph one, except for the following circumstances:

(1) the data subject has been aware of such new purposes or details;

(2) the Data Controller can prove that the notice of such new purposes or information details is impossible or will obstruct the use or disclosure of the Personal Data, in

particular for achieving the purposes in relation to scientific, historical, or statistical research purposes. In such cases, the Data Controller shall take suitable measures to protect the data subject's rights, freedoms and interests;

(3) the use or disclosure of the Personal Data shall be carried out on an urgent basis as required by law, and suitable measures have been implemented to protect the data subject's interest; or

(4) the Data Controller is aware of or acquires such Personal Data from his or her duty or occupation or profession, and shall maintain the confidentiality of any of the new purposes or information details as prescribed in Section 23 as required by law.

To notify the information details in paragraph two, the Data Controller shall provide such information to the data subject within thirty days after the date of collection such of Personal Data, unless the Personal Data are to be used for communication with the data subject, the notice of information details shall be provided at the time of the first communication to that data subject. If a disclosure to another Person is envisaged, the notice of information details shall be provided prior to the time of the first disclosure.

Section 26 Any collection of Personal Data pertaining to racial, ethnic origin, political opinions, cult, religious or philosophical beliefs, sexual behavior, criminal records, health data, disability, trade union information, genetic data, biometric data, or of any data which may affect the data subject in the same manner, as prescribed by the Committee, is prohibited, without the explicit consent from the data subject, except where:

(1) it is to prevent or suppress a danger to life, body or health of the Person, where the data subject is incapable of giving consent by whatever reason;

(2) it is carried out in the course of legitimate activities with appropriate safeguards by the foundations, associations or any other not-for-profit bodies with a political, religious, philosophical, or trade union purposes for their members, former members of the bodies, or persons having regular contact with such foundations, associations or not-for-profit bodies in connection with their purposes, without disclosing the Personal Data outside of such foundations, associations or not-for-profit bodies;

(3) it is information that is disclosed to the public with the explicit consent of the data subject;

(4) it is necessary for the establishment, compliance, exercise or defense of legal claims;

(5) it is necessary for compliance with a legal obligation to achieve the purposes with respect to:

(a) preventive medicine or occupational medicine, the assessment of working capacity of the employee, medical diagnosis, the provision of health or social care, medical treatment, the management of health or social care systems and services. In the event that it is not for compliance with the legal obligation, and such Personal Data is under the responsibility of the occupational or profession practitioner or person having the duty to

keep such Personal Data as confidential under the law, it must be for compliance with the contract between the data subject and the medical practitioner;

(b) public interest in public health, such as protecting against cross-border dangerous contagious disease or epidemics which may be contagious or pestilent, or ensuring standards or quality of medicines, medicinal products or medical devices, on the basis that there is a provision of suitable and specific measures to safeguard the rights and freedom of the data subject, in particular maintaining the secrecy of Personal Data in accordance with the duties or professional ethics;

(c) employment protection, social security, national health security, social health welfare of the entitled person by law, the road accident victims protection, or social protection in which the collection of Personal Data is necessary for exercising the rights or carrying out the obligations of the Data Controller or the data subject, and the suitable measures have been provided to protect the fundamental rights and interest of the data subject;

(d) it is for the scientific, historical, or statistic research purposes, or other public interests which must be carried out only to the extent necessary to achieve such purposes, and the suitable measures have been provided to protect the fundamental rights and interest of the data subject as prescribed by the Committee; or

(e) the substantial public interest, and the suitable measures have been provided to protect the fundamental rights and interest of the data subject.

The biometric data in paragraph one shall mean the Personal Data arising from the use of technics or technology related to the physical or behavioral dominance of Person, which can be used to identify such Person apart from other Persons, such as the facial recognition data, iris recognition data or fingerprint recognition data.

In the case of the collection of the Personal Data relating to criminal record, such collection shall be carried out under the control of authorized official authority under the law, or the data protection measure has been implemented according to rules prescribed by the Committee.

Part 3

Use or Disclosure of Personal Data

Section 27 The Data Controller shall not use or disclose Personal Data without the consent of the data subject, unless it is the Personal Data which is collected without requirement of consent under Section 24 or Section 26.

The Person or juristic person who obtains Personal Data as a result of the disclosure under paragraph one shall not use or disclose such Personal Data for any purpose

other than the purpose previously notified to the Data Controller in the request to obtain such Personal Data.

In the event that the Data Controller uses or discloses the Personal Data which is exempted from consent requirement in paragraph one, the Data Controller shall maintain a record of such use or disclosure in the record under Section 39.

Section 28 In the event that the Data Controller sends or transfers the Personal Data to a foreign country, the destination country or international organization that receives such Personal Data shall have adequate data protection standard, and shall be carried out in accordance with the rules for the protection of Personal Data as prescribed by the Committee in Section 16(5), except in the following circumstances:

- (1) where it is for compliance with the law;
- (2) where the consent of the data subject has been obtained, provided that the data subject has been informed of the inadequate Personal Data protection standards of the destination country or international organization;
- (3) where it is necessary for the performance of a contract to which the data subject is a party, or in order to take steps at the request of the data subject prior to entering into a contract;
- (4) where it is for compliance with a contract between the Data Controller, and other Persons or juristic persons for the interests of the data subject;
- (5) where it is to prevent or suppress a danger to the life, body, or health of the data subject or other Persons, when the data subject is incapable of giving the consent at such time; or
- (6) where it is necessary for carrying out the activities in relation to substantial public interest.

In the event that there is a problem with regard to the adequacy of Personal Data protection standards of the destination country or international organization, such problem shall be submitted to the Committee to decide. The decision made by the Committee may be reviewed when there is a new evidence convincing that the destination country or international organization that receives such Personal Data has developed adequate Personal Data protection standards.

Section 29 In the event that the Data Controller or the Data Processor who is in the Kingdom of Thailand has put in place a Personal Data protection policy regarding the sending or transferring of Personal Data to another Data Controller or Data Processor who is in a foreign country, and is in the same affiliated business, or is in the same group of undertakings, in order to jointly operate the business or group of undertakings. If such Personal Data protection policy has been reviewed and certified by the Office, the sending or transferring of Personal Data to a foreign country, which is in accordance with such reviewed and certified Personal Data protection policy, can be carried out and shall be exempt from compliance with Section 28.

The Personal Data protection policy, the nature of the same affiliated undertaking or affiliated business in order to jointly operate the undertaking or business, and the rules and methods for the review and certification in paragraph one shall be as prescribed and announced by the Committee.

In the absent of a decision by the Committee in accordance with Section 28, or the Personal Data protection policy referred in paragraph one, the Data Controller or the Data Processor may send or transfer the Personal Data to a foreign country in exemption to compliance with Section 28, if the Data Controller or the Data Processor provides suitable protection measures which enable the enforcement of the data subject's rights, including effective legal remedial measures according to the rules and methods as prescribed and announced by the Committee.

Chapter III

Rights of the Data subject

Section 30 The data subject is entitled to request access to and obtain a copy of the Personal Data related to him or her, which is under the responsibility of the Data Controller, or to request the disclosure of the acquisition of the Personal Data obtained without his or her consent.

The Data Controller shall perform as requested in paragraph one. The request can be rejected only where it is permitted by law or pursuant to a court order, and such access and obtaining a copy of the Personal Data would adversely affect the rights and freedoms of others.

In the case that the Data Controller rejects the requests in paragraph one, the Data Controller shall record its rejection together with supporting reasons in the record as prescribed in Section 39.

When the data subject makes a request as in paragraph one, and such request cannot be rejected based on the reasons in paragraph two, the Data Controller shall fulfill the request without delay, but shall not exceed thirty days from the date of receiving such request.

The Committee may prescribe rules for the access to and request to obtain a copy of the Personal Data in paragraph one, including the extension of the period under paragraph four, or other rules as appropriate.

Section 31 The data subject shall have the right to receive the Personal Data concerning him or her from the Data Controller. The Data Controller shall arrange such Personal Data to be in the format which is readable or commonly used by ways of automatic tools or equipment, and can be used or disclosed by automated means. The data subject is also entitled to:

(1) request the Data Controller to send or transfer the Personal Data in such formats to other Data Controllers if it can be done by the automatic means;

(2) request to directly obtain the Personal Data in such formats that the Data Controller sends or transfers to other Data Controllers, unless it is impossible to do so because of the technical circumstances.

The Personal Data in paragraph one must be the Personal Data that the data subject has given consent for the collection, use, or disclosure of such Personal Data according to the rules under this Act, or the Personal Data that is exempted from consent requirements under Section 24(3), or any other Personal Data referred to under Section 24 as prescribed by the Committee.

The exercise of rights of the data subject in paragraph one shall not apply to the sending or transferring of Personal Data by the Data Controller which is the performance of a task carried out in the public interest, or for compliance with law, or such exercise of rights shall not violate the rights and freedoms of others. In the event that the Data Controller rejects the request by such reasons, the Data Controller shall make a record of such rejection of the request together with reasons in the record as prescribed in Section 39.

Section 32 The data subject has the right to object the collection, use, or disclosure of the Personal Data concerning him or her, at any time, in the following circumstances:

(1) Where the Personal Data is collected with the exemption to consent requirements under Section 24(4) or (5), unless the Data Controller can prove that:

(a) the collection, use, or disclosure of such Personal Data can be demonstrated by the Data Controller that there is a compelling legitimate ground;

(b) the collection, use, or disclosure of such Personal Data is carried out for the establishment, compliance or exercise of legal claims, or defense of legal claims;

(2) the collection, use, or disclosure of such Personal Data is for the purpose of direct marketing; or

(3) the collection, use, or disclosure of the Personal Data for the purpose of scientific, historical or statistic research, unless it is necessary to performance of a task carried out for reasons of public interest by the Data Controller.

In the event that the data subject exercises his or her right to object in paragraph one, the Data Controller shall no longer be able to collect, use, or disclose such Personal Data. And the Data Controller shall immediately distinguish such personal data clearly from the other matters at the time when the data subject gives the notice of objection to the Data Controller.

In the event that the Data Controller rejects the objection by the reasons in (1) (a) or (b) or (3), the Data Controller shall record such rejection of objection request together with reasons in the record as prescribed in Section 39.

Section 33 The data subject shall have the right to request the Data Controller to erase or destroy the Personal Data, or anonymize the Personal Data to become the anonymous data which can not identify the data subject, where the following ground applies:

(1) the Personal Data is no longer necessary in relation to the purposes for which it was collected, used or disclosed;

(2) the data subject withdraws consent on which the collection, use, or disclosure is based on, and where the Data Controller has no legal ground for such collection, use, or disclosure;

(3) the data subject objects to the collection, use, or disclosure of the Personal Data referred in Section 32(1), and the Data Controller can not reject to such request as referred in Section 32(1) (a) or (b), or where the data subject exercise his or her right to object as referred in Section 32(2); or

(4) the Personal Data have been unlawfully collected, used, or disclosed under this Chapter.

Paragraph one shall not apply to the extent that such Personal Data retention is necessary for the purpose of freedom of expression, the purpose under Section 24(1) or (4) or Section 26(5)(a) or (b), the purpose of establishment, compliance or exercise of legal claims, or defense of legal claims, or the purpose for compliance with the law.

Where the Data Controller has made the Personal Data public and is requested to erase or destroy the Personal Data, or make the Personal Data become the anonymous data which can not identify the data subject pursuant to paragraph one, the Data Controller shall be responsible for the course of action, both the implementation of technology and the expenses to fulfil the request, and inform other Data Controllers in order to obtain their responses regarding the action to be taken to fulfil such request.

In the event that the Data Controller does not take action in accordance with paragraph one or three, the data subject shall have the right to complain to expert committee to order the Data Controller to take such action.

The Committee may announce the rules for the erasure or destruction of Personal Data, or anonymization of the Personal Data to become the anonymous data which can not identify the data subject pursuant to paragraph one.

Section 34 The data subject shall have the right to request the Data Controller to restrict the use of the Personal Data, where the following applies:

(1) when the Data Controller is pending examination process in accordance with the data subject's request pursuant to Section 36;

(2) when it is the Personal Data which shall be erased or destroyed pursuant to Section 33 (4), but the data subject requests the restriction of the use of such Personal Data instead.

(3) when it is no longer necessary to retain such Personal Data for the purposes of such collection, but the data subject has necessity to request for further retention for the purposes of the establishment, compliance or exercise of legal claims, or defense of legal claims;

(4) when the Data Controller is pending verification with regard to Section 32 (1), or pending examination with regard to Section 32 (3) in order to reject the objection request made by the data subject in accordance to Section 32 paragraph three.

In the event that the Data Controller does not take action in accordance with paragraph one, the data subject shall have the right to complain to expert committee to order the Data Controller to take such action.

The Committee may prescribe and announce rules regarding the suspension of use in accordance with paragraph one.

Section 35 The Data Controller shall ensure that the Personal Data remains accurate, up-to-date, complete, and not misleading.

Section 36 In the case where the data subject requests the Data Controller to act in compliance with Section 35, if the Data Controller does not take action regarding the request of the data subject, the Data Controller shall record such request of the data subject together with reasons, in the record as prescribed in Section 39.

The provisions of Section 34 paragraph two shall apply *mutatis mutandis*.

Section 37 The Data Controller shall have the following duties:

(1) provide appropriate security measures for preventing the unauthorized or unlawful loss, access to, use, alteration, correction or disclosure of Personal Data, and such measures must be reviewed when it is necessary, or when the technology has changed in order to efficiently maintain the appropriate security and safety. It shall also be in accordance with the minimum standard specified and announced by the Committee;

(2) in the circumstance where the Personal Data is to be provided to other Persons or legal persons, apart from the Data Controller, the Data Controller shall take action to prevent such person from using or disclosing such Personal Data unlawfully or without authorization;

(3) put in place the examination system for erasure or destruction of the Personal Data when the retention period ends, or when the Personal Data is irrelevant or beyond the purpose necessary for which it has been collected, or when the data subject has request to do so, or when the data subject withdraws consent, except where the retention of such Personal Data is for the purpose of freedom of expression, the purpose under Section 24(1) or (4) or Section 26 (5) (a) or (b) , the purpose of the establishment, compliance or exercise of legal claims, or defense of legal claims, or the purpose of compliance with the law. The provision in Section 33 paragraph five shall be used to govern the erasure or destruction of Personal Data *mutatis mutandis*.

(4) notify the Office of any Personal Data breach without delay and, where feasible, within 72 hours after having become aware of it, unless such Personal Data breach is unlikely to result in a risk to the rights and freedoms of the Persons. If the Personal Data breach is likely to result in a high risk to the rights and freedoms of the Persons, the Data Controller shall also notify the Personal Data breach and the remedial measures to the data subject without delay. The notification and the exemption to the notification shall be made in accordance with the rules and procedures set forth by the Committee.

(5) in the event of being the Data Controller pursuant to Section 5 paragraph two, the Data Controller shall designate in writing a representative of the Data Controller who must be in the Kingdom of Thailand and be authorized to act on behalf of the Data Controller without any limitation of liability with respect to the collection, use or disclosure of the Personal Data according to the purposes of the Data Controller.

Section 38 The provisions of the representative designation in Section 37(5) shall not apply to the following Data Controller:

(1) the Data Controller which is a public authority as prescribed and announced by the Committee,

(2) the Data Controller which engages in the profession or business of collecting, using, or disclosing Personal Data, that does not have the nature pursuant to Section 26, and does not have a large amount of Personal Data as prescribed by the Committee in Section 41 (2).

In the event that the Data Controller in Section 5 paragraph two has a Data Processor, the provisions of Section 37 (5) and the provisions in paragraph one shall apply to such Data Processor *mutatis mutandis*.

Section 39 The Data Controller shall maintain, at least, the following records in order to enable the data subject and the Office to check upon, which can be either in a written or electronic form:

(1) the collected Personal Data;

(2) the purpose of the collection of the Personal Data in each category;

(3) details of the Data Controller;

(4) the retention period of the Personal Data;

(5) rights and methods for access to the Personal Data, including the conditions regarding the Person having the right to access the Personal Data and the conditions to access such Personal Data;

(6) the use or disclosure under Section 27 paragraph three;

(7) the rejection of request or objection according to Section 30 paragraph three, Section 31 paragraph three, Section 32 paragraph three, and Section 36 paragraph one; and

(8) details of the appropriate security measures pursuant to Section 37 (1).

The provisions in paragraph one shall apply to the representative of the Data Controller under Section 5 paragraph two *mutatis mutandis*.

The provisions in (1) (2) (3) (4) (5) (6) and (8) may not apply to the Data Controller who is a small organization pursuant to the rules as prescribed by the Committee, unless the collection, use, or disclosure of such Personal Data is likely to result in a risk to the rights and freedoms of data subjects, or not a business where the collection, use, or disclosure of the Personal Data is occasional, or involving in the collection, use, or disclosure of the Personal Data pursuant to Section 26.

Section 40 The Personal Data Processor shall have the following duties:

(1) carry out the activities related to the collection, use or disclosure of Personal Data only pursuant to the instruction given by the Data Controller, except where such instruction is contrary to the law or any provisions regarding Personal Data protection under this Act;

(2) provide appropriate security measures for preventing unauthorized or illegal loss, access to, use, alteration, correction or disclosure, of Personal Data, and notify the Data Controller of the Personal Data breach that occurred; and

(3) prepare and maintain records of personal data processing activities in accordance with the rules and methods set forth by the Committee.

The Data Processor, who fails to comply with (1) for the collection, use, or disclosure of the Personal Data, shall be regarded as the Data Controller for the collection, use or disclosure of such Personal Data.

In carrying out the activities in accordance with the Data Processor's obligations as assigned by the Data Controller under paragraph one, the Data Controller shall prepare an agreement between the parties to control the activities carried out by the Data Processor to be in accordance with the Data Processor's obligations for compliance with this Act.

The provisions in (3) may not apply to the Data Processor who is a small organization pursuant to the rules as prescribed by the Committee, unless the collection, use, or disclosure of such Personal Data is likely to result in a risk to the rights and freedoms of data subjects, or not a business where the collection, use, or disclosure of the Personal Data is occasional, or involving in the collection, use, or disclosure of the Personal Data pursuant to Section 26.

Section 41 The Data Controller and the Data Processor shall designate a data protection officer in the following circumstances:

(1) the Data Controller or the Data Processor is a public authority as prescribed and announced by the Committee;

(2) the activities of the Data Controller or the Data Processor in the collection, use, or disclosure of the Personal Data require a regular monitoring of the Personal Data or the system, by the reason of having a large number of Personal Data as prescribed and announced by the Committee; or

(3) the core activity of the Data Controller or the Data Processor is the collection, use or disclosure of the Personal Data according to Section 26.

In the event that the Data Controller or the Data Processor are in the same affiliated business or are in the same group of undertakings, in order to jointly operate the business or group of undertakings as prescribed and announced by the Committee according to

Section 29 paragraph two, such Data Controller or Data Processor may jointly designate a data protection officer. In this regard, each establishment of the Data Controller or the Data Processor in the same affiliated business or in the same group of undertakings must be able to easily contact the data protection officer.

The provisions in paragraph two shall apply to the Data Controller or the Data Processor who is a public authority in (1) that is large in size or has several establishments *mutatis mutandis*.

In the event that the Data Controller or the Data Processor in paragraph one has to designate the representative according to Section 37 (5), the provisions in paragraph one shall apply to the representative *mutatis mutandis*.

The Data Controller and the Data Processor shall have an obligation to inform the information of the data protection officer, contact address and contact channels to the data subject and the Office. The data subject shall be able to contact the data protection officer with respect to the collection, use or disclosure of the Personal Data and the exercise of rights of the data subject under this Act.

The Committee may prescribe and announce the qualifications of the data protection officer by taking into account the knowledge or expertise with respect to the Personal Data protection.

The personal data protection officer may be a staff of the Data Controller or the Data Processor, or a service provider under the contract with the Data Controller or the Data Processor.

Section 42 The data protection officer shall have the following duties:

(1) give advices to the Data Controller or the Data Processor, including the employees or service providers of the Data Controller or of the Data Processor with respect to compliance with this Act;

(2) investigate the performance of the Data Controller or the Data Processor, including the employees or service providers of the Data Controller or of the Data Processor with respect to the collection, use or disclosure of the Personal Data for compliance with this Act;

(3) coordinate and cooperate with the Office in the circumstance where there are problems with respect to the collection, use or disclosure of the Personal Data undertaken by the Data Controller or the Data Processor, including the employees or service providers of the Data Controller or of the Data Processor with respect to the compliance with this Act; and

(4) keep confidential the Personal Data known or acquired in the course of his or her performance of duty under this Act.

The Data Controller or the Data Processor shall support the data protection officer in performing the tasks by providing adequate tools or equipment, as well as facilitate the access to the Personal Data in order to perform the duties.

The Data Controller or the Data Processor shall not dismiss or terminate the

data protection officer's employment by the reason that the data protection officer performs his or her duties under this Act. In the event that there is any problem when performing the duties, the data protection officer must be able to directly report to the highest management person of the Data Controller or the Data Processor.

The data protection officer may be able to perform other duties or tasks but the Data Controller or the Data Processor must warrant to the Office that such duties or tasks are not against or contrary to the performance of the duties under this Act.

Chapter IV

Office of the Personal Data Protection Committee

Section 43 There shall be an Office of the Personal Data Protection Committee, whose objectives are to protect Personal Data, encourage and support the country's development regarding Personal Data protection.

The Office shall act as a government agency, with the status of a juristic person. The Office shall not be deemed a public sector under the law on administrative organization of the state, or a state enterprise under the law on budget procedures or other laws.

The Office's operation shall not be governed by the laws on labor protection, labor relations, state enterprise labor relations, social security, and workmen's compensation. However, the staff and employees of the Office shall be entitled to compensation at the rate not less than the rate stipulated by the laws on labor protection, social security, and workmen's compensation.

The Office shall be deemed a government agency under the law on tort liability of government official.

Section 44 In addition to the Office's duty to carry out its operations to achieve the objectives as set out in Section 43 paragraph one, the Office shall have the duty to perform academic and administrative tasks for the Committee, the commission supervising the Office of Personal Data Protection Committee, the expert committee, and the sub-committee. The Office shall also have the following duties and power:

(1) To draft the master plan on the operation for the promotion and protection of Personal Data, which are coherent with national policies, national strategies and relevant national plans, and to draft the master plan and corrective measures regarding the difficulties in carrying out such national level policies, strategies and plans in order to propose to the Committee;

(2) To promote and support the research for the development of technology relating to the protection of Personal Data;

(3) To analyze and verify the compliance with and accuracy of the standards or measures, or the supervision mechanism in connection with Personal Data protection, as well as to review and certify the Personal Data protection policy

according to Section 29;

(4) To conduct surveys, collect information, and follow the latest updates and trends on Personal Data protection, as well as to conduct analysis and research on Personal Data protection issues that affect the country's development, to propose to the Committee.

(5) To liaise with the public sector, state enterprises, local government administration, public organizations, or other organizations of the country regarding Personal Data protection;

(6) To provide consultations to government agency and private agency in acting in compliance with this Act;

(7) To act as the center to provide academic services or services related to Personal Data protection to the government agency, private agencies, and the public, including to promote and provide knowledge and understanding regarding Personal Data protection;

(8) To establish course outlines and provide training of the performance of the Data Controller, Data Processor, data protection officer, employees, service providers, or the people in general;

(9) To enter into agreements and cooperate with organizations or agencies both domestic and international, in the matters relating to the Office's operation carried out under the Office's duties and power, upon obtaining the approval from the Committee;

(10) To follow-up on and evaluate compliance with this Act; and

(11) To carry out other duties as assigned by the Committee, the commission supervising the Office of Personal Data Protection Committee, the expert committee, or the sub-committee, or as specified by law.

Section 45 In carrying out the Office's operation, apart from those stipulated under Section 44, the Office shall also have the power and duties to carry out the following:

(1) To hold the title to, be in the possession of, and hold the property right to properties;

(2) To create rights or carry out all kinds of juristic acts to bind upon properties, as well as to carry out any other juristic acts for the purpose of carrying out the Office's operation;

(3) To provide and to give funding to support the Office's operations;

(4) To impose fees, maintenance fees, compensation, or service fees for the Office's operations according to the Office's objectives, in accordance with the criteria and at the rate specified by the Office, with the approval of the commission supervising the Office of Personal Data Protection Committee; and

(5) To carry out any other acts that the law specifies to be the duties and powers of the Office, or as assigned by the Committee, the commission supervising the Office of Personal Data Protection Committee, the expert committee, or the sub-committee.

Section 46 The fund and properties used in the Office's business operations shall consist of the following:

- (1) Initial budget provided by the government under Section 94 paragraph one;
- (2) General grants as reasonably provided by the government on a yearly basis;
- (3) Subsidy from domestic or international government agencies, or international governmental organizations;
- (4) Fees, maintenance fees, compensation, service fees, or incomes incurred from the Office's operations carried out under the Office's duties and power;
- (5) Interests of funds or any other incomes obtained from properties of the Office.

The funds and properties of the Office under paragraph one are required to be submitted to the Ministry of Finance as public revenue.

Section 47 The immovable properties that the Office acquires by the purchase or exchange using the Office's revenue in Section 46(4) or (5) shall be under the Office's ownership.

Section 48 There shall be a commission supervising the Office of Personal Data Protection Committee consisting of a Chairperson, who is selected and appointed from a person having distinguished knowledge, skills and experience in Personal Data protection, the Permanent Secretary of the Ministry of Digital Economy and Society, and the Secretary-General of Office of the National Digital Economy and Society Commission as directors, and six honorary directors which, at least three persons, are selected and appointed from persons having distinguished knowledge, skills and experience in Personal Data protection; and other related areas which will be useful for the operation of the Office.

The Secretary-General shall be a director and secretary, and shall appoint assistant secretaries from the officials of the Office not exceeding two persons.

The substances of Section 11 and Section 13 shall apply to the Chairperson and the honorary director of the Commission *mutatis mutandis*.

Section 49 There shall be a selection committee of eight members, consisting of the persons appointed by the Committee, having the duty to select the appropriate persons who should be appointed as the Chairperson and the honorary director in Section 48.

The selection committee shall select one member to act as the Chairperson of the selection committee and another one member to act as the Secretary of the selection committee and the Office shall perform the duty as the administrative unit of the selection committee.

In the event that any member of the selection committee is vacant, a new member must be selected to replace such vacancy without delay. During the time that no new member has been selected, the selection committee shall consist of the existing members.

No member of the Section Committee shall be entitled to be nominated as the Chairperson and the honorary director in Section 48.

The rules and procedures of selection shall be as prescribed by the

Committee by taking into account the transparency and fairness in the selection.

Section 50 In selecting the Chairperson and the honorary director in Section 48, the selection committee shall select the persons who have qualifications in Section 48 paragraph one, including having the qualifications and no prohibited characteristics under Section 48 paragraph three and agree to be nominated for the selection in the same number as the number of Chairperson and the honorary director to be appointed in Section 48.

After the total number of Chairperson and the honorary director in Section 48 have been selected, the selection committee shall submit the name of Chairperson and the honorary director in Section 48 together with the evidence of qualifications and no prohibited characteristics as well as the consent of such persons to the Committee for the appointment as the Chairperson and the honorary director according to Section 48.

The Committee shall publish names of the appointed Chairperson and the honorary directors in Section 48 in the *Government Gazette*.

Section 51 The Chairperson and the honorary director in Section 48 shall hold office for a term of 4 years.

Upon the expiration of the term of office in paragraph one, the appointment of the new Chairperson and the new honorary director must be done within 60 days. If the new Chairperson or the new honorary director has not yet been appointed, the Chairperson or the honorary director whose term of office has expired, shall be in office to continue to perform his or her duties until the new appointed Chairperson or the honorary director assumes his or her duties.

The Chairperson, or the honorary director, who vacates office upon the expiration of the term, may be reappointed, but shall not seat in his or her office for more than 2 terms.

Section 52 In the case where the Chairperson or the honorary director in Section 48 vacates office before the expiration of the term, the commission supervising the Office of Personal Data Protection Committee shall consist of all the existing members until the new Chairperson or the new honorary director is appointed. In the case where the Chairperson vacates office before the expiration of the term, the Permanent Secretary of the Ministry of Digital Economy and Society shall temporarily perform the duties of the Chairperson.

The new Chairperson and honorary director shall be appointed to replace the vacant office within 60 days from the date of the vacant office and shall be in office for the remaining office term of the replaced person. If the remaining office term of the Chairperson and the honorary director is less than ninety days, the appointment of the new Chairperson or the new honorary director may not have to be made.

Section 53 At a meeting of the commission supervising the Office of Personal Data Protection Committee, the presence of not less than one-half of all the members is

required to constitute a quorum.

The Chairperson shall preside over the meeting. If the Chairperson does not attend the meeting, or is unable to perform the duties, the attending members shall elect one member among themselves to be the chairperson of the meeting.

A decision of the meeting shall be made by a majority of votes. Each member shall have one vote. In case of equal votes, the chairperson of the meeting shall have an additional vote as the decisive vote.

Any member having an interest in the matter to be considered in the meeting shall be prohibited from attending such meeting.

The meeting of the commission supervising the Office of Personal Data Protection Committee may be undertaken by electronic means, as prescribed by the Committee.

Section 54 The Commission Supervising the Office of Personal Data Protection Committee shall have the following powers and duties.

(1) To prescribe administration policy and give approval to the Office's operation plan;

(2) To issue rules governing the organization, financial matters, human resources administration, general administrative works, internal audit, including welfares and support services of the Office;

(3) To approve the annual operation plan, annual spending plan and annual budget of the Office;

(4) To control the administration and operation of the Office and the Secretary-General to be in accordance with this Act and other related laws;

(5) To appoint a selection committee for the selection of the Secretary-General;

(6) To determine any appeals against the administrative orders of the Secretary-General in the part of the Office's administration;

(7) To evaluate the result of the Office's operation and the Secretary-General's work performance; and

(8) To perform any other duties prescribed by this Act or other related laws as the duties and power of the Commission Supervising the Office of Personal Data Protection Committee or as assigned by the Committee or the Cabinet.

For the rules in (2), if there is a restriction of the power of the Secretary-General in entering into a juristic act with a third party, it must be published in the *Government Gazette*.

Section 55 The commission supervising the Office of Personal Data Protection Committee shall have the power to appoint a sub-committee to perform any duties or act as assigned by the commission supervising the Office of Personal Data Protection Committee.

The commission supervising the Office of Personal Data Protection Committee may appoint persons having skills or experience that will be useful for the duties performed by the commission supervising the Office of Personal Data Protection Committee as its advisers.

The performance of duties and numbers of the sub-committee in paragraph one or persons in paragraph two shall be in accordance with those prescribed by the commission supervising the Office of Personal Data Protection Committee.

For a meeting of the sub-committee, the substances of Section 53 shall apply *mutatis mutandis*.

Section 56 The Chairperson and members of the commission supervising the Office of Personal Data Protection Committee, advisers of the commission supervising the Office of Personal Data Protection Committee, Chairperson and members of the sub-committee appointed by the commission supervising the Office of Personal Data Protection Committee shall receive a meeting allowance or other benefits according to the rules prescribed by the Committee with the approval of the Ministry of Finance.

Section 57 There shall be a Secretary-General who is appointed by the commission supervising the Office of Personal Data Protection Committee and the Secretary-General has the duty to administer the affairs of the Office.

The appointment of the Secretary-General in paragraph one shall be made in accordance with the rules and methods of recruitment, as prescribed by the commission supervising the Office of Personal Data Protection Committee.

Section 58 A person to be appointed Secretary-General must have the qualifications as follows.

- (1) being of Thai nationality;
- (2) being not lower than thirty-five years old but not over sixty years old;
- (3) having knowledge, skills and experience in the areas related to the mission of the Office and administration;

Section 59 Any person holding any of the following prohibiting characteristics shall not be Secretary-General:

- (1) being bankrupt or having been dishonestly bankrupt;
- (2) being an incompetent or quasi-incompetent person;

(3) having been subject to a final judgement to imprisonment, regardless of whether he or she has actually been imprisoned or not, except for an offence committed by negligence or a misdemeanor;

(4) being a civil official, staff, or employee of government agency, or state enterprise, or other governmental organization, or local official agency;

(5) being or having been an official politician, a person holding political position, a member of the local assembly, or in a management position of local administration, unless having been discharged from his or her office of not less than one year;

(6) being or having been a director, or other political position in a political party, or an officer of the political party, unless having been discharged from his or her office of not less than one year;

(7) having been fired, dismissed, or discharged from an official service on grounds of dishonest performance of duties or having committed severe wrongful acts, or removed from his or her office;

(8) having been discharged on grounds of not passing the performance evaluation in accordance with Section 62(4); and

(9) being a direct or indirect stake person in the Office's related business.

Section 60 The Secretary-General shall hold office for each term of four years and may be reappointed. However, the Secretary-General shall not hold office more than two terms.

Not less than thirty days but not over sixty days before the end of the office term of the Secretary-General or within sixty days from the date that the Secretary-General vacates office before the end of the office term, the commission supervising the Office of Personal Data Protection Committee shall appoint a selection committee to select a new Secretary-General. The selection committee shall nominate not more than three appropriate persons to the commission supervising the Office of Personal Data Protection Committee.

Section 61 In each year, the performance of the Secretary-General shall be evaluated in accordance with the period and method prescribed by the commission supervising the Office of Personal Data Protection Committee.

Section 62 In addition to vacating office upon the expiration of the term in Section 60, the Secretary-General shall vacate office upon:

(1) death;

(2) resignation;

(3) being disqualified under Section 58, or under any of the prohibited characteristics under Section 59; or

(4) being dismissed by the commission supervising the Office of Personal Data Protection Committee due to failure to pass the performance evaluation, disgraceful

behavior, negligence or dishonesty in the performance of duties, or incapability.

Section 63 The Secretary-General shall have the following duties and power.

(1) To manage the works of the Office for the achievements according to the Office's missions and in accordance with the national policies and plans, strategic plans, policy of the Cabinet, of the Committee and of the commission supervising the Office of Personal Data Protection Committee and according to the rules, regulations or resolutions of the commission supervising the Office of Personal Data Protection Committee;

(2) To establish regulations with respect to the operations of the Office which are not contrary to or against the laws, the Cabinet resolutions and the regulations, rules, requirements, policies, resolutions or notifications prescribed by the commission supervising the Office of Personal Data Protection Committee;

(3) To act as the supervisor of the staffs and employees of the Office and to evaluate the performance of the staffs and employees of the Office according to the Office's rules or regulations.

(4) To appoint the Deputy Secretary-General and the Assistant Secretary-General by the approval of the commission supervising the Office of Personal Data Protection Committee in order to act as the Secretary-General's assistant as assigned by the Secretary-General;

(5) To recruit, appoint, promote, decrease or deduct the salary of, and to take disciplinary action against the staffs and employees of the Office, as well as to dismiss the staffs and employees of the Office according to the rules or regulations of the commission supervising the Office of Personal Data Protection Committee;

(6) To perform any act according to the regulations, rules, requirements, policies, resolutions or notifications prescribed by the Commission Supervising the Office of Personal Data Protection Committee.

The Secretary-General shall be responsible for the administration of the Office and shall directly report to the commission supervising the Office of Personal Data Protection Committee.

Section 64 In the Office's affairs related to the third party, the Secretary-General shall act as the Office's representative. In this connection, the Secretary-General may grant the power to any person to perform any specific work on his or her behalf according to the rules prescribed by the commission supervising the Office of Personal Data Protection Committee.

Section 65 The commission supervising the Office of Personal Data Protection Committee shall be responsible for determining salary rate and other benefits of the Secretary-General according to the rules prescribed by the Cabinet.

Section 66 In the interests of administration of the Office, the Secretary-

General may request a civil official, staff, officer, or employee of a public sector, government agency, state enterprise, civil local administration, public organization or other government agencies to work as its temporary staff or employee, provided that the approval is obtained from his or her supervisor or employer with an agreement made at the time of such approval. In the event that a government official is approved to work as a temporary staff or employee, it shall be deemed that such person is permitted to leave the original official service or employment to perform any work.

Upon the end of the term approved to work for the Office, the government official in paragraph one shall be entitled to return and be appointed to be in office and to receive the salary in the original official service or work unit not lower than the original level of position and salary according to the agreement made at the time of the approval.

In the event that such government official has returned and been appointed to work in the original official service or work unit in paragraph two, the period that such government official worked for the Office shall be counted as full time working in such original official service or work unit, as the case may be, for the purpose of calculating pension or other benefits of the same nature.

Section 67 For the civil official or government official who is working in compensation for the scholarship granted to him or her by a public sector, or government agency and is transferred to work at the Office by the approval of his or her supervisor of the original public sector or government agency, it shall be deemed that working in the Office has reimbursed the compensation under the scholarship contract and the work period with the Office shall be counted as a time period of compensation for the scholarship.

In the event that any government agency makes a request that the Office's officer who is working in compensation for the scholarship granted to him or her by the Office to be a civil official or government official in such government agency, such request must be approved by the Secretary-General first and it shall be deemed that working in such government agency has reimbursed the compensation under the scholarship contract and the work period with such government agency shall be counted as the time period of compensation for the scholarship.

Section 68 Accounting of the Office shall be made in accordance with international standards according to the forms and rules prescribed by the commission supervising the Office of Personal Data Protection Committee.

Section 69 The Office shall prepare financial statements and accounting statements and send them to the auditor within one hundred and twenty days from the date of the fiscal year-end.

The Government Audit Office or a certified public accountant approved by the Government Audit Office shall be the Office's auditor and shall evaluate the Office's expenditures and property on an annual basis and report the auditing results to the commission supervising the Office of Personal Data Protection Committee for certification.

Section 70 The Office shall prepare an annual operation report and submit to the commission supervising the Office of Personal Data Protection Committee and the Minister within one hundred and eighty days from the date of the fiscal year-end and shall

disseminate this report to the public.

The annual operation report in paragraph one must display the details of the balance sheet which has been given an opinion by the auditor, as well as the Office's achievement and evaluation report of the Office's performance in the preceding year.

The evaluation of the Office's performance under paragraph two must be undertaken by a third party approved by the commission supervising the Office of Personal Data Protection Committee.

Chapter V

Complaints

Section 71 The Committee shall appoint one or more expert committees based upon their field of expertise, or as the Committee deems fit.

The qualifications and prohibitions, term of office, vacation from office, and other operations of the expert committee shall be in accordance with the Committee's notification.

Section 72 The expert committee shall have the following duties and power:

- (1) Consider complaints under this Act;
- (2) Investigate any act of the Data Controller or the- Data Processor, including the employees or the contractors of the Data Controller or the Data Processor in connection with the Personal Data that causes damage to the Data subject;
- (3) Settle disputes in connection with Personal Data; and
- (4) Carry out any other acts which are stipulated as the expert committee's duty and power under this Act or as assigned by the Committee.

Section 73 The Data subject has the right to file a complaint in the event that the Data Controller or the Data Processor, including the employees or the service providers of the Data Controller or the Data Processor violates or does not comply with this Act, or notifications issued in accordance with this Act.

The filing, refusal of acceptance, dismissal, consideration and timeframe for the consideration of the complaints shall be in accordance with the Committee's rule by taking into account the refusal of acceptance of the complaints or dismissal of the matter in the event that there has been the authority to consider such matter under other laws.

Section 74 In the event that a complainant does not comply with the rules provided in Section 73 paragraph two, or the complaint filed is prohibited from being

accepted for consideration under such rules, the expert committee shall not accept such complaint for consideration.

If, after the expert committee's consideration of the complaint pursuant to Section 72 (1), or the investigation of any act pursuant to Section 72 (2), it is found that such complaint or act has no ground, the expert committee shall issue an order to dismiss such complaint or investigation.

If, after the expert committee's consideration or investigation under paragraph two, it is found that such complaint or act can be settled, and the concerned parties are willing to settle the dispute, the expert committee shall proceed with the dispute settlement. However, if such complaint or act cannot be settled, or the dispute settlement fails, the expert committee shall have the power to issue the following orders:

(1) for the Data Controller or the Data Processor to perform, or rectify their act within the specified period of time; or

(2) to prohibit the Data Controller or the Data Processor from carrying out an act which causes damage to the Data subject, or for the Data Controller to carry out any act to cease the damage within the specified period of time;

In the event that the Data Controller or the Data Processor does not comply with the orders provided under paragraph three (1) or (2), the provisions in connection with administrative enforcement under the law on administrative procedure shall be applied *mutatis mutandis*. In the event that the properties of the Data Controller or the Data Processor are to be seized, attached, or sold by auction, as required by the law on administrative procedure, the expert committee shall have the power to order such seizure, attachment, and sale by auction for such purpose.

The issuance of the order under paragraph one, two, or three (1) or (2) shall be in accordance with the criteria and methods under the Committee's notification.

The orders of the expert committee shall be signed by the Chairperson of the expert committee.

The order of the expert committee in this Section shall be final.

In order to proceed in accordance with this Section, when the consideration result is issued, the expert committee shall inform the complainant of such result together with the reasons. In case that the complaint is not accepted for consideration or dismissed as such complaint has already been under consideration of an official authority under other laws, the expert committee shall inform the complainant of the same. If the complainant wishes to propose such matter to the official authority under other laws, the expert committee shall proceed to do so and shall be deemed that such official authority has received such complaint from the date when the expert committee has received such complaint.

Section 75 The expert committee shall have the power to order any person to submit documents or information in connection with the subject matter of a complaint, or any other matter related to the protection of the Personal Data under this Act. The expert committee shall also have the power to request any person to make a statement of facts.

Section 76 In order to act in accordance with this Act, the Competent Officer shall have the following duties and power:

(1) Request the Data Controller, the Data Processor, or any person in writing, to provide information or submit any documents or evidence in connection with the actions or offenses under this Act;

(2) Investigate and collect facts, and report to the expert committee in the event that the Data Controller, the Data Processor, or any person, has committed an offense or caused damage due to their violation of or non-compliance with this Act or notifications issued in accordance with this Act.

In carrying out the duty in (2), if there is a necessity to protect the benefits of the Data subject or for public's interest, the Competent Officer shall file a compliant to the competent court to issue an order granting permission to the Competent Officer to enter the premises of the Data Controller, or any person involved in the offense under this Act, during the interval between sunrise and sunset or during the business hours of such premises, to investigate and collect facts, seize, or attach documents, evidence, or any other items related to the offense, or which has a cause to believe that they are used to commit such offense.

In order to appoint the Competent Officer, the Minister shall consider appointing such person from the civil officials or other government officials whose position is not lower than a civil official at the operational level or equivalent, and having the qualifications in accordance with the notification issued by the Committee.

During the performance of his or her duties under this Section, the Competent Officer shall present his or her identification card to the relevant persons and be provided with reasonable facilitation by the relevant persons.

The identification card of the Competent Officer shall be in accordance with the form required by the notification of the Committee.

Chapter VI

Civil Liability

Section 77 The Data Controller or the Data Processor, whose operation in relation to Personal Data violates or fails to comply with the provisions of this Act which causes damages to the Data subject, shall compensate the Data subject for such damages, regardless of whether such operation is performed intentionally or negligently, except where the Data Controller or the Data Processor can prove that such operation was a result of:

(1) a force majeure, or the Data subject's own act or omission to act;

(2) an action taken in compliance with an order of a government official exercising its duties and power under the law;

The compensation under paragraph one includes all necessary expenses incurred by the Data subject for the prevention of the damages likely to occur, or which was spent to suppress the damages occurred.

Section 78 The court shall have the power to order the Data Controller or the Data Processor to pay punitive damages in addition to the actual compensation rendered by the court as deems fit, but shall not exceeding 2 times of such actual compensation amount, by taking into account the relating circumstances such as the severity of damages incurred by the Data subject, the interest obtained by the Data Controller or the Data Processor, the financial status of the Data Controller or the Data Processor, remedy provided by the Data Controller or the Data Processor, or the Data subject's act in contributing to cause the damages.

The claim for compensation from the wrongful act against the Personal Data under this Act shall be barred by prescription after the lapse of 3 years from the date that the injured person know of the damages and the identity of the Data Controller or the Data Processor who is to be liable, or after 10 years from the date of which the wrongful act against the Personal Data took place.

Chapter VII

Penalties

Part I

Criminal Liability

Section 79 Any Data Controller who violates the provisions under Section 27 paragraph one or paragraph two, or fails to comply with Section 28, which relates to the Personal Data under Section 26 in a manner that is likely to cause other person to suffer any damage, impair his or her reputation, or expose such other person to be scorned, hated, or humiliated, shall be punished with imprisonment for a term not exceeding six months, or a fine not exceeding five hundred thousand Baht, or both.

Any Data Controller who violates the provisions under Section 27 paragraph one or paragraph two, or fails to comply with Section 28, which relates to the Personal Data under Section 26 in order to unlawfully benefit himself/herself or another person, shall be punished with imprisonment for a term not exceeding one year, or a fine not exceeding one million Baht, or both.

The offenses under this Section are compoundable offenses.

Section 80 Any person who comes to know the Personal Data of another person as a result of performing duties under this Act and discloses it to any other person shall be punished with imprisonment for a term not exceeding six months, or a fine not exceeding five hundred thousand Baht, or both.

The provisions of paragraph one shall not be enforced against disclosures in any of the following circumstances:

- (1) where it is a performance of duty;
- (2) where it is for the benefit of an investigation, or a trial in court;
- (3) where it is a disclosure to a domestic or a foreign government agency which has authority under the law;
- (4) where the written consent of such Data subject has been obtained for the disclosure for such specific occasion; or
- (5) where it is in relation to a legal lawsuit, which is openly disclosed to the public.

Section 81 In the case where the offender who commits the offense under this Act is a juristic person and the offense is conducted as a result of the instructions given by or the act of any director, manager or person, who shall be responsible for such act of the juristic person, or in the case where such person has a duty to instruct or perform any act, but omits to instruct or perform such act until the juristic person commits such offense, such person shall also be punished with the punishment as prescribed for such offense.

Part II

Administrative Liability

Section 82 Any Data Controller who fails to comply with Section 23, Section 30 paragraph four, Section 39 paragraph one, Section 41 paragraph one, or Section 42 paragraph two or paragraph three, or fails to obtain consent using a form or statement set forth by the Committee under Section 19 paragraph three, or fails to notify the impact of the withdrawal of consent under Section 19 paragraph six, or fails to comply with Section 23 which applies *mutatis mutandis* according to Section 25 paragraph two, shall be punished with an administrative fine not exceeding one million Baht.

Section 83 Any Data Controller who violates or fails to comply with Section 21, Section 22, Section 24, Section 25 paragraph one, Section 27 paragraph one or

two, Section 28, Section 32 paragraph two, or Section 37, or who obtains consent by deceiving or misleading the Data subject about the purposes, or fails to comply with Section 21 which applies *mutatis mutandis* according to Section 25 paragraph two, or fails to send or transfer the Personal Data in accordance with Section 29 paragraph one or paragraph three, shall be punished with an administrative fine not exceeding three million Baht.

Section 84 Any Data Controller who violates Section 26 paragraph one or three, or Section 27 paragraph one or paragraph two, or Section 28 in relation to the Personal Data under Section 26, or fails to send or transfer the Personal Data under Section 26 to be in accordance with Section 29 paragraph one or paragraph three, shall be punished with an administrative fine not exceeding five million Baht.

Section 85 Any Data Processor who fails to comply with Section 41 paragraph one, or Section 42 paragraph two or three, shall be punished with an administrative fine not exceeding one million Baht.

Section 86 Any Data Processor who fails to comply with Section 40 without appropriate reasons, or fails to send or transfer the Personal Data in accordance with Section 29 paragraph one or three, or fails to comply with Section 37 (5) which applies *mutatis mutandis* according to Section 38 paragraph two, shall be punished with an administrative fine not exceeding three million Baht.

Section 87 Any Data Processor who send or transfer the Personal Data under Section 26 paragraph one or three, by not complying with Section 29 paragraph one or three, shall be punished with an administrative fine not exceeding five million Baht.

Section 88 Any representative of the Data Controller or of the Data Processor who fails to comply with Section 39 paragraph one which applies *mutatis mutandis* according to Section 39 paragraph two, and Section 41 paragraph one which applies *mutatis mutandis* according to Section 41 paragraph four, shall be punished with an administrative fine not exceeding one million Baht.

Section 89 Any person who fails to act in compliance with the order given by the expert committee, or fails to provide statement of facts under Section 75, or fails to comply with Section 76(1), or fails to facilitate government officials under Section 76 paragraph four, shall be punished with an administrative fine not exceeding five hundred thousand Baht.

Section 90 The expert committee shall have the power to render the punishment as an administrative fine prescribed in this Part. In the event that it deems fit, the expert committee may issue an order for rectification or a warning first.

In determining whether to issue an order to impose an administrative fine, the expert committee shall take into consideration the severity of the circumstances of the act of

offense, size of the business of the Data Controller or the Data Processor, or other circumstances according to the rules prescribed by the Committee.

In cases where a person imposed with an administrative fine refuses to pay such fine, the provisions concerning the execution of administrative orders under the administrative procedure law shall apply *mutatis mutandis*. In cases where there is no officer to execute an administrative order, or there is such officer but such order cannot be executed otherwise, the expert committee shall be entitled to file a lawsuit with the Administrative Court in order to demand payment of such fine. In such event, if the Administrative Court is of the opinion that the order that imposes an administrative fine is lawful, the Administrative Court may render judgment and order seizure or attachment of assets for sale by auctions, to pay such fine.

The order to impose the administrative fine and the administrative execution shall apply *mutatis mutandis* according to Section 74 paragraph six, and the administrative execution per paragraph three shall apply *mutatis mutandis* according to Section 74 paragraph four.

Transitional Provisions

Section 91 At the early stage, the Committee shall consist of committee members under Section 8(2) and (3), and the Secretary-General shall be the committee member and secretary, who shall perform duties as necessary for the time being, but for not more than 90 days from the effective date of this Act. A Vice-Chairperson shall temporarily act as a Chairperson.

The Office shall manage to appoint a Chairperson under Section 8(1), and the honorary director under Section 8(4), within 90 days from the effective date of this Act.

Section 92 A commission supervising the Office of the Personal Data Protection Committee shall be set up within 90 days from the date when the Chairperson and the honorary director are appointed in accordance with Section 91.

The Secretary-General shall be appointed within 90 days from the date when the Office has been set up in accordance with Section 93.

Section 93 The Office shall be set up in order to operate in accordance with this Act within one year from the effective date of this Act.

During the period when the Office has not yet been duly set up, the Office of the Permanent Secretary of the Ministry of Digital Economy and Society shall perform the duties in accordance with this Act, and the Minister shall appoint a Deputy Permanent Secretary of the Ministry of Digital Economy and Society to perform the Secretary-General's duties until there is an appointment of the Secretary-General in accordance with Section 92 paragraph two.

Section 94 At the early stages, the Cabinet shall allocate the initial budget for the Office as necessary.

The Ministry shall propose to the Cabinet to consider procuring a civil official, official, staff, or any other operating officer in other government organizations to temporarily act as an official of the Office within the period specified by the Cabinet.

It shall be deemed that the civil official, official, staff, or any other operating officer in other government organizations who temporarily act as an official of the Office in accordance with paragraph two remains in his or her own position, and still receive salary or wages (as the case may be) from his or her original department. The Committee may also determine a special remuneration for the civil official, staff, official, or any other operating officer in other government organizations in accordance with paragraph two during his or her operation in the Office.

Within 180 days from the date when the Office has been set up, the Office shall proceed to recruit the civil official, official, staff, or any other operating officer in other government organizations in accordance with paragraph two to be a permanent official of the Office afterwards.

Any civil official, official, staff, or any other operating officer in other government organizations who has been recruited and seated in accordance with paragraph four shall have his or her working period for his or her previous department continued and counted together with his or her working period for the operation in the Office under this Act.

Section 95 For Personal Data that has previously been collected by a Data Controller before the effective date of this Act, the Data Controller shall be entitled to continue to collect and use such Personal Data for the original purposes. However, the Data Controller shall prepare and publicize a consent withdrawal method to facilitate the Data subject, who does not wish the Data Controller to continue collecting and using his or her Personal Data, to notify his or her withdrawal of consent easily.

The disclosure and other acts other than the collection and use of Personal Data under paragraph one, shall be in accordance with the provisions hereunder.

Section 96 The issuance of regulations and notifications under this Act shall be carried out within one year from the effective date of this Act. If such action cannot be carried out, the Minister shall report to the Cabinet the reasons thereof.

Countersigned by

General Prayut Chan-o-cha
Prime Minister

Remarks :- The reason for the enactment of this Act is that nowadays there are and have been many cases of violations of the right to the privacy protection of personal data resulting in the nuisance to or damages to the data subject. In addition, the technological developments has increased the ease, convenience and swiftness of the collection, use and disclosure of personal data that are done in a manner constituting such violations, which also causes the damages to the economy in overall. Therefore, it is appropriate to have the law governing the personal data protection in general in order to prescribe the rules, mechanism, or measures regulating personal data protection as a matter of general principles, and thus the Act is necessary to be enacted.