

PERSONAL DATA PROTECTION BILL 2009 - IMPLEMENTATION AND ENFORCEMENT

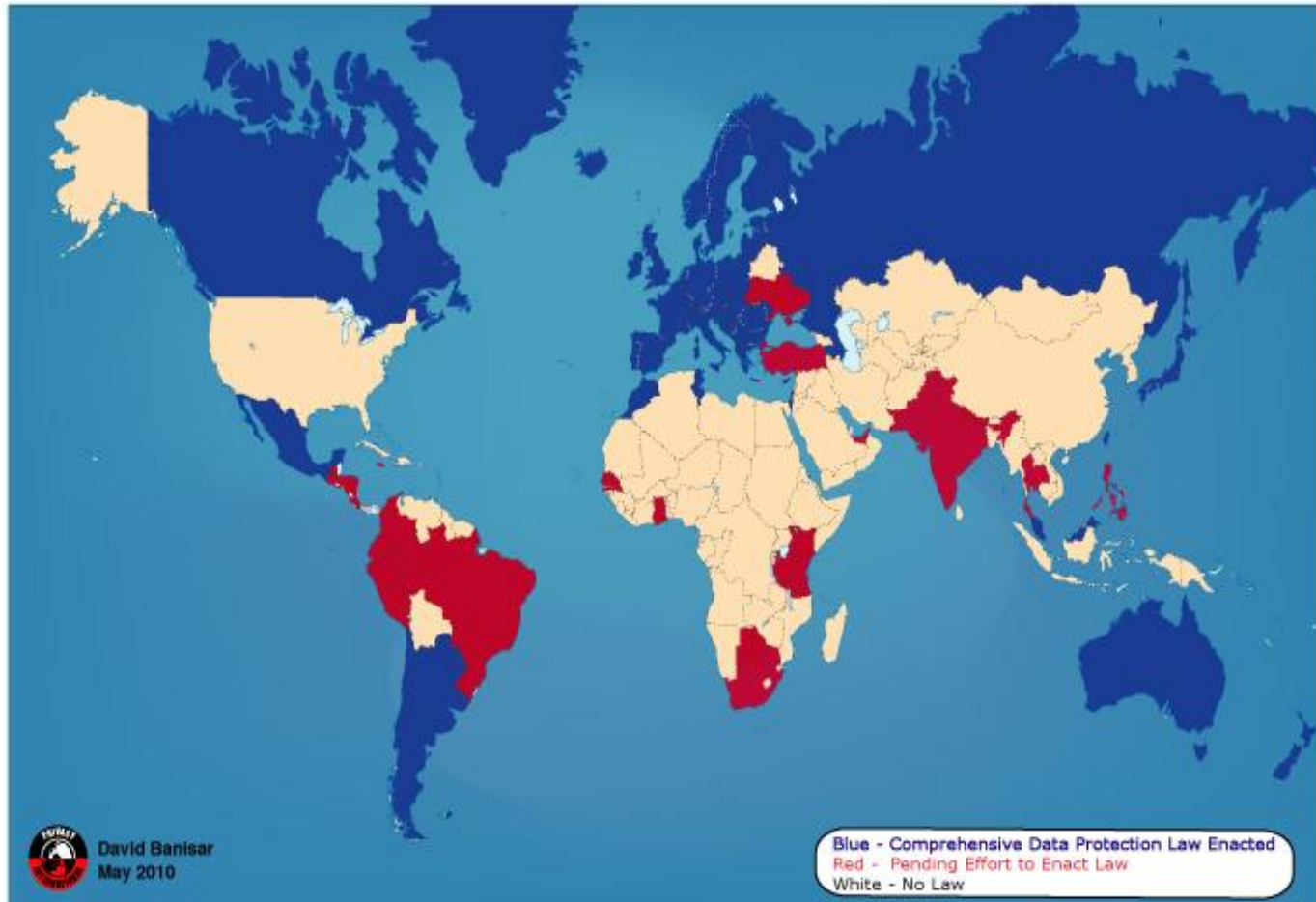
TREVORGEORGE
PARTNERSHIP
ADVOCATES & SOLICITORS

Suite E-07-08, 7th Floor, Plaza Mon't Kiara
No.2, Jalan 1/70C, Mon't Kiara
50480 Kuala Lumpur, Malaysia
Tel : (6)03-6205 8088 (Hunting Line)
Fax: (6)03-6205 8089
Email : enquiry@trevorgeorgelaw.com

INTRODUCTION

- Disclosure of employees data (including medical and personal data);
- Defining private employee data;
- Legal requirements imposing privacy rights with respect to employee data (medical, benefit, criminal and credit background checks);
- Practical considerations for such disclosure.

Data Protection Laws Around the World



BACKGROUND

- 2000: First draft – available for public to comment
- 2007: New draft
- 2009: First reading – Dewan Rakyat
- 2010: 5 April – 2nd and 3rd reading
- 2010: 4 May – Dewan Negara
- 2010: 2 June – Royal Assent granted
- 2010: 10 June – Gazetted (not yet in force)

PERSONAL DATA PROTECTION ACT 2010 (“PDPA 2010”)

➤ Regulate the processing and usage of personal data in commercial transactions by data users for the purpose of protecting the data subject’s personal data and safeguarding their interests.

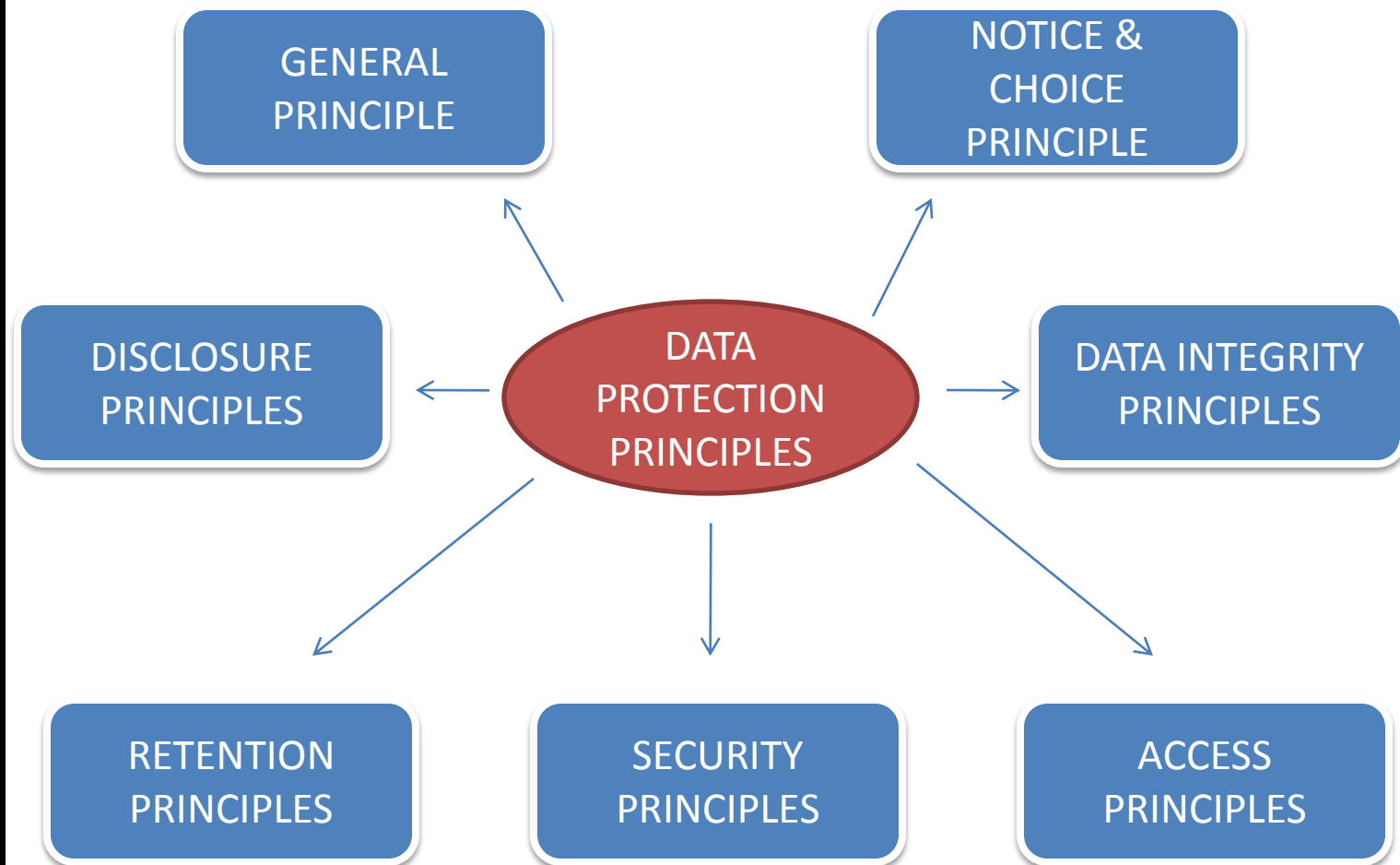
Collecting
Recording
Holding
Storing
Organising

An individual who is the subject of personal data

An individual who either alone or jointly or in common with other persons processes or authorises the processing of any personal data or has control over personal data, but does not include a data processor.

DATA PROTECTION PRINCIPLES

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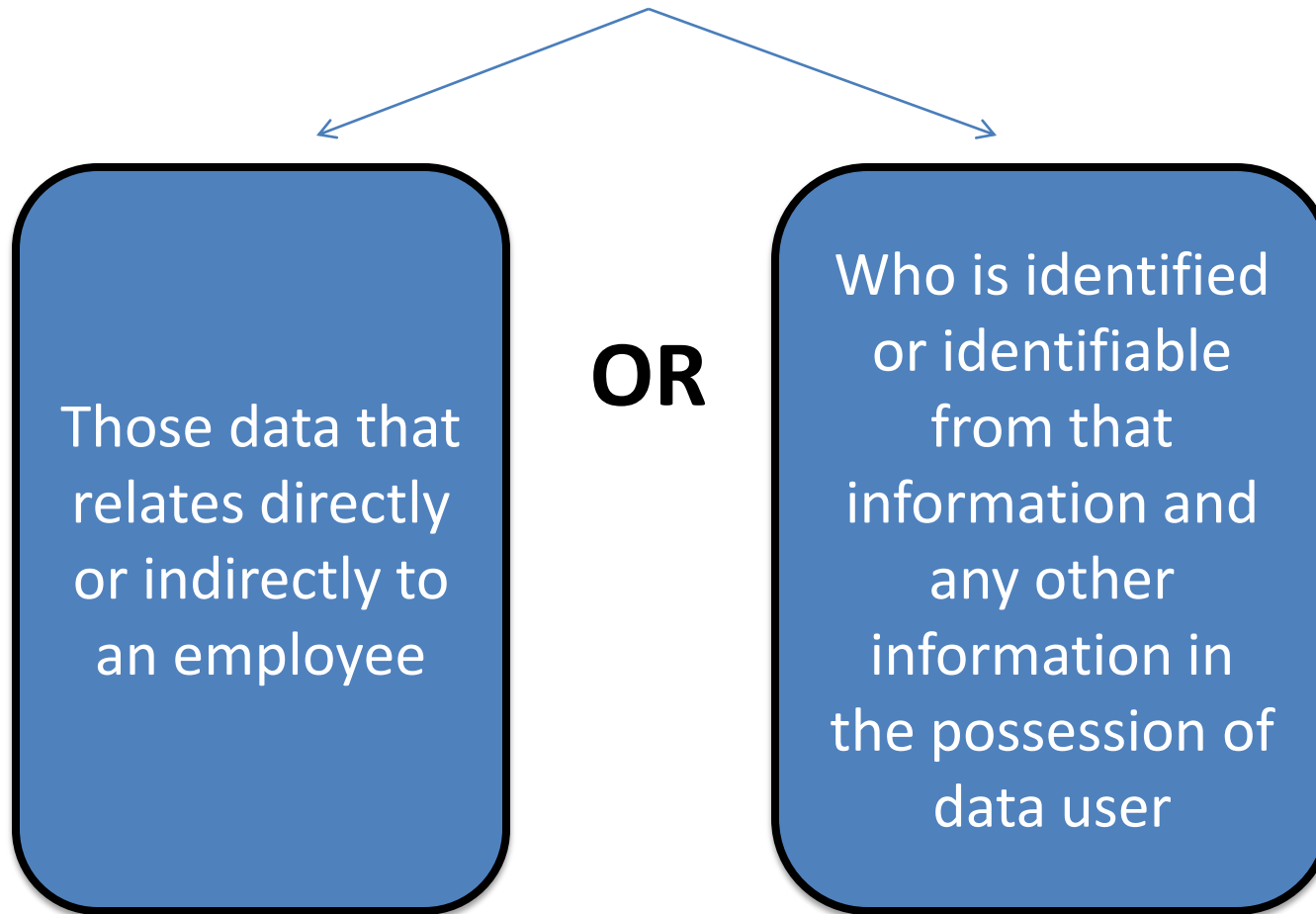
DISCLOSURE OF EMPLOYEES DATA

DISCLOSURE PRINCIPLE

- Governed by S. 8 of the **PDPA 2010**.
- No personal data shall, without the consent of the data subject (the employee), be disclosed for any other purpose other than:
 1. the purpose for which the personal data was to be disclosed at the time of collection of the personal data;
 2. a purpose directly related to the purpose referred to in the paragraph immediately above; or
 3. to any party other than a third party of the class of third parties as specified in paragraph S. 7(1)(e) of the PPDA 2010.

DEFINING PRIVATE EMPLOYEE DATA

DEFINING PRIVATE EMPLOYEE DATA



LEGAL REQUIREMENTS IMPOSING PRIVACY RIGHTS WITH RESPECT TO EMPLOYEE DATA

Schmidt Scientific Sdn Bhd v Ong Han Suan **(1998) 1 CLJ 685**

The High Court held that that the relationship between an employee and employer is a confidential one and the court can infer an implied contract of confidentiality. This case involves the breach by an employee of his employer's confidential information. The law of confidentiality applies with equal force to the confidential information of an employee obtained by an employer.

Dalglish v Lothian and Borders Police Board *[1991] IRLR 422*

An interdict was granted preventing the employers from disclosing details [*names and addresses*] of employees to a third party, a council who were pursuing community charge defaulters. The Court held that these were confidential information, not in the public domain and was held only for the purposes of employer-employee relationship.

PRACTICAL CONSIDERATIONS FOR SUCH DISCLOSURE

PRACTICAL CONSIDERATIONS

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graph TD; A[PRACTICAL CONSIDERATIONS] --> B[PARTIAL DISCLOSURE]; A --> C[TOTAL DISCLOSURE];
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PARTIAL DISCLOSURE

1. Prevention or detection of crime;
2. Apprehension or prosecution of offenders;
3. Assessment or collection of tax or duty;
4. Physical or mental health;
5. Statistics or research;
6. Court order or judgment;
7. Regulatory functions;
8. Journalistic, literary or artistic purposes.

TOTAL DISCLOSURE

1. Personal;
2. Family;
3. Household affairs.

~THANK YOU~



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