
Data Protection

Personal Data Protection Update – First Data User to be Charged under the Personal Data Protection Act 2010

Introduction

In this update, we wish to bring to your attention the latest news relating to the enforcement of the Malaysian Personal Data Protection Act 2010 ("**PDPA**"), wherein a company has become the first data user to be charged (in the Sessions Court) for alleged breach of the PDPA.

This marks the commencement of the enforcement phase of the PDPA by the Personal Data Protection Department and the Personal Data Protection Commissioner, Puan Khalidah binti Mohd Darus.

Charge For Alleged Breach of the PDPA

On 3 May 2017, the company, Khas Cergas Sdn Bhd, which operates a local private college, was charged in the Sessions Court for processing personal data of former employees of the college without a valid certificate of registration issued by the Personal Data Protection Department ("**PDPD**"), in contravention of section 16(1) of the PDPA. Section 16(1) requires certain classes of data users to be registered and to be issued with a valid certificate of registration by the PDPD.

The company has pleaded not guilty to the charge before the Sessions Court Judge.

The offence was allegedly committed at the premises of the private college (Victoria International College) operated by the company, and located at Jalan Kampong Batu, Taman Batu 5, Jalan Ipoh, at about 12.15 pm on June 6, 2016.

The charge, under Section 16(4) of the PDPA, provides that in the event of conviction, the company would be liable to a fine of up to RM500,000, or imprisonment of its officer(s) for up to three years, or both.

The Court has set 22 May 2017 for mention, in order to allow the company time to appoint a lawyer and submit relevant documents.

The prosecution was conducted by Deputy Public Prosecutors Izalina Abdullah and Fauziah Daud, from the Communications and Multimedia Ministry. Izalina, when met by reporters, said this was the first case to be charged under the PDPA.

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Enforcement Phase of the PDPA

As stated above, the above case marks the commencement of the enforcement phase of the PDPA by the PDPD.

Clearly, the Commissioner is moving from the awareness phase (where the PDPD sought to create awareness amongst data users), to the enforcement phase of the PDPA, and will consequently be closely monitoring all data users, whether registered or otherwise.

Enforcement activities are expected to go into full swing from this stage forward and all data users are advised to fully operationalise their data protection policies and procedures, in line with the PDPA and/or the relevant codes of practice for specific industries/sectors.

We trust that the above provides you with a quick update in relation to the PDPA and the status of its operationalisation and implementation. Should you require any assistance in relation to any of the above or in relation to any other aspect of personal data protection, please feel free to get in touch with us at your convenience.

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ASEAN Economic Community Portal

The launch of the ASEAN Economic Community ("AEC") in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch "Business in ASEAN", a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN's business landscape. Of particular interest to businesses is the "Ask a Question" feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at <http://www.businessinasean.com>.

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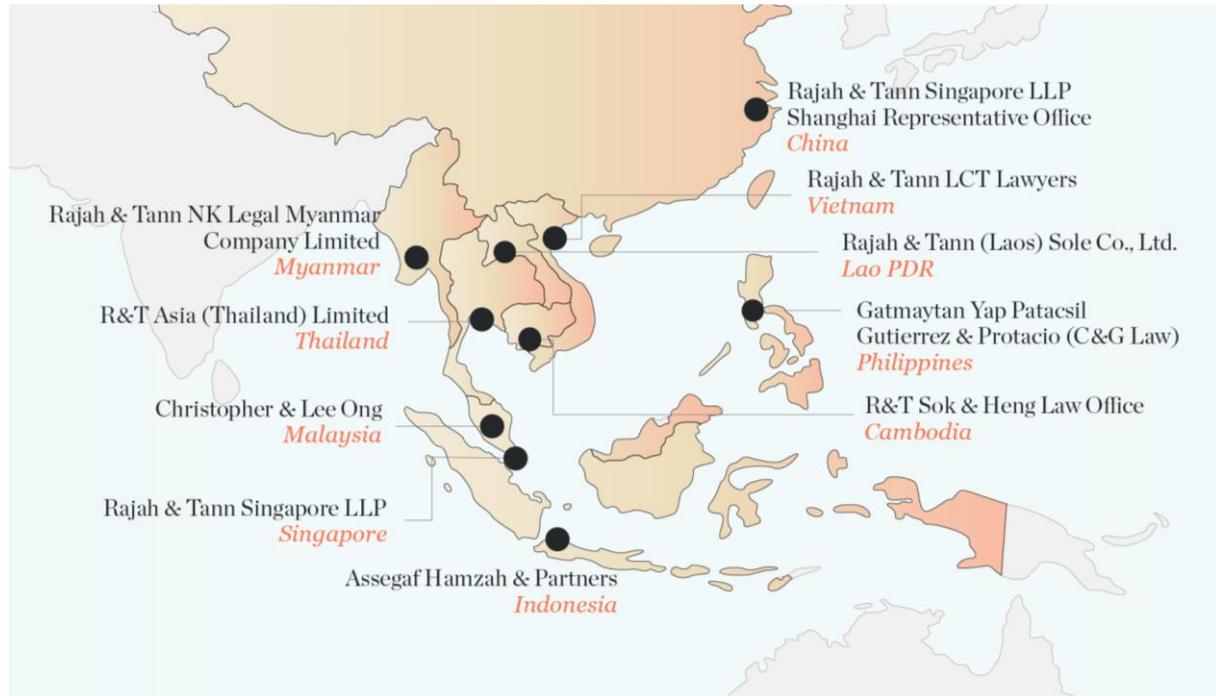
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