

Lease find theJurisdiction	Cayman Islands
Date	6 May 2022
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Questionnaire

I. Law concerning protection of personal information

- i. Does your country have a general law concerning the protection of personal information in the private sector at the present or in the near future?
- ii. Does your country have a general law concerning protection of personal information in the public sector at the present or in the near future?
- iii. Does your country have laws concerning protection of personal information which apply in individual (specific) sectors at the present or in the near future? (If yes, please describe outline.)

In the Cayman Islands, the relevant statute is the Data Protection Act (2021 Revision) (the **DPA**). The DPA originally came into force on 30 September 2019, together with the accompanying Data Protection Regulations, 2018. Persons established or processing personal data in the Cayman Islands, both in the public and private sectors, must ensure that they are compliant with the DPA's requirements.

Where all of the answers to the question of I.(i), (ii) and (iii) is “no”, please skip to IV.

II. The basic information of the regulation concerning protection of personal information.

- i. Please fill in the blanks below about all the law concerning personal information mentioned at I..(please add a reply column as necessary,)

The title of the law : [Data Protection Act \(2021 Revision\)](#)

URL:

https://legislation.gov.ky/cms/images/LEGISLATION/PRINCIPAL/2017/2017-0033/DataProtectionAct_2021%20Revision.pdf?zoom_highlight=data+protection+act#search=%22data%20protection%20act%22

Enforcement status: Entered into force on 30 September 2019

① The definition of “Personal Information”	The term used in the DPA is " personal data ", which is defined as meaning data relating to a living individual
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	<p>who can be identified and includes data such as:</p> <ul style="list-style-type: none"> (a) the living individual's location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the living individual; (b) an expression of opinion about the living individual; or (c) any indication of the intentions of the data controller or any other person in respect of the living individual. <p>A "data controller" under the DPA is the person who, alone or jointly with others, determines how and why personal data is, or is to be, processed.</p>
② The scope in which the law applies	The DPA provides a framework for both public and private entities in the management of the personal data they use. However, the DPA does not apply to processing of personal data carried out by individuals purely for personal/household activities.
③ The territorial scope	The DPA applies to a data controller in respect of any personal data only if: <ul style="list-style-type: none"> (a) the data controller is established in the Cayman Islands and the personal data is processed in the context of that establishment; or (b) the data controller is not established in the Cayman Islands but the personal data is processed in the Cayman Islands otherwise than for the purposes of transit of the data through the Cayman Islands.

- ii. If there are any special instructions about the laws, please describe them.

III. OECD Privacy Principles

- i. If there are any provision of law which embody each OECD Privacy Principle in your country, please describe the outlines.

<https://www.oecd.org/sti/ieconomy/oecdguidelinesonthe protectionofprivacyandtransborderflowsofpersonaldata.htm>

The DPA is modelled on European data protection legislation and the eight Data Protection Principles applicable in the Cayman Islands are set out in Schedule 1, Part 1 of the DPA. Details of the First, Second, Third, Fourth, Sixth and Seventh Data Protection Principles are provided below. In addition, the DPA also sets out the following Data Protection Principles:

Fifth Data Protection Principle (Storage limitation): Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose.

Eighth Data Protection Principle (International transfers): Personal data shall not be transferred to a country or territory unless that country or territory ensures an

adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

(a) Collection Limitation Principle

First Data Protection Principle (Fair and lawful processing): Personal data shall be processed fairly. In addition, personal data may be processed only if:

- (a) in every case, at least one of the conditions set out in paragraphs 1 to 6 of Schedule 2 to the DPA is met; and
- (b) in the case of sensitive personal data, at least one of the conditions in paragraphs 1 to 10 of Schedule 3 to the DPA is also met.

(b) Data Quality Principle

Third Data Protection Principle (Data minimization): Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is collected or processed.

Fourth Data Protection Principle (Data accuracy): Personal data shall be accurate and, where necessary, kept up to date.

(c) Purpose Specification Principle

Second Data Protection Principle (Purpose limitation): Personal data shall be obtained only for one or more specified lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

(d) Use Limitation Principle

See the Second Data Protection Principle (Purpose limitation), above.

(e) Security Safeguards Principle

Seventh Data Protection Principle (Security – integrity and confidentiality): Appropriate technical and organizational measures shall be taken against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

(f) Openness Principle

This OECD principle is not one of the eight Data Protection Principles under the DPA. However, the DPA provides data subjects with certain rights in relation to their own personal data, though those rights are not absolute and may be restricted in certain specified circumstances. The DPA grants the following rights to individuals:

- The right to be informed.
- The right of access.
- The right to rectification.
- The right to stop/restrict processing.

- The right to stop direct marketing.
- Rights in relation to automated decision making.
- The right to seek compensation.
- The right to complain.

The right to be informed means that individuals have a right to be informed about the use and collection of their personal data. A data controller must provide individuals with information including:

- who the data controller is; and
- the purposes for processing their personal data.

(g) Individual Participation Principle

This OECD principle is not one of the eight Data Protection Principles under the DPA

The Sixth Data Protection Principle (Respect for the individual's rights) under the DPA then provides that personal data shall be processed in accordance with the rights of data subjects under the DPA.

(h) Accountability Principle

The Ombudsman may issue an enforcement order to a data controller which the Ombudsman determines has contravened the requirements of the DPA. Failure to comply with an enforcement order issued under the DPA is an offence punishable on conviction to a fine of C\$100,000 (approximately US\$121,951) and/or to 5 years' imprisonment.

ii. If there are any sectors in which any laws exclude the application of each OECD Privacy Principle, please describe the outline.

(a) Collection Limitation Principle

(b) Data Quality Principle

(c) Purpose Specification Principle

(d) Use Limitation Principle

(e) Security Safeguards Principle

(f) Openness Principle

(g) Individual Participation Principle

(h) Accountability Principle

The DPA contains exemptions to the rights granted to individual data subjects (as described above) in certain circumstances, including where processing is required:

- to safeguard national security;
- to prevent, detect or investigate crime; or
- for the purposes of any monitoring, inspection or regulatory function, including to ensure compliance with international tax treaties or international co-operation obligations.

A detailed description of the exemptions and their application is outside the scope of this Questionnaire.

IV. Data Localization and Government Access

In your country, are there any systems having an impact on the rights of data subjects such as comprehensive government access to personal data or Data Localization? If yes, please describe them.

Certain competent and supervisory authorities within the Cayman Islands may require access to, and are required to collate, data held by the private sector, which will include personal data. These information access rights and procedures are provided by multiple legal instruments and, in the main, are aimed at prudent regulation of Cayman entities and compliance with international standards on transparency and exchange of information and include regimes relating to:

- beneficial ownership information of certain Cayman Islands entities (in accordance with the Companies Act (2022 Revision), Limited Liability Companies Act (2021 Revision) and Limited Liability Partnerships Act (2021 Revision));
- economic substance (in accordance with the International Tax Co-operation (Economic Substance) Act (2021 Revision));
- automatic exchange of information regimes, including compliance with the Common Reporting Standard under the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations (2021 Revision); and
- the dissemination of financial information disclosures concerning the proceeds of criminal conduct, money laundering and the financing of terrorism, or suspicions of any of those crimes, pursuant to the Proceeds of Crime Act (2020 Revision).

There is no requirement in the Cayman Islands that personal data be stored or processed within the jurisdiction.

V. The Data Protection Authority

If there is the data protection authority, please write down the name and address of the authority

The Office of the Ombudsman

5th Floor, Anderson Square

PO Box 2252

64 Shedden Road

George Town

Grand Cayman, KY1-1107

Cayman Islands