



## PrivacyRules Country Overview: Privacy and Data Protection in Taiwan

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*Expert position: Partner*

### *Expert presentation*

Partner John EASTWOOD has nearly two decades of experience in handling data protection and privacy matters. John's work includes assisting one of the most famous social media companies with privacy and IP matters in Taiwan, privacy and defamation matters on behalf of global and regional entertainment figures, and extensive work for a major educational and entertainment studio producing animations, audio, live-action video and online content. He has also represented several major American technology companies with trade secrets litigation. John is admitted to the Ohio (U.S.) bar, and is a registered foreign lawyer in Taiwan.

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[ **SCOPE:** The scope of the Country Overview template is to confirm to clients the quality and accuracy of the expertise that PrivacyRules and its Members can provide. It is an informative document, yet does not constitute advise or give direction on the design of privacy policies in each given jurisdiction ]

[ **COMPILATION:** Simple yes / no answer, brief explanation ( limited to max 5 lines per answer ) with indication of title and year of adoption when referring to laws / bills / regulations / guidelines, list the latest one first. This information will be reproduced on the PrivacyRules webpage under "The law of privacy" ]

**Q: Are privacy and data protection recognised by the Constitution / Fundamental Rights Bill?**

A: Yes. Article 22 of Taiwan's Constitution states that all other freedoms and rights of the people that are not detrimental to social order or public welfare shall be guaranteed under the Constitution.

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**Q: Is there primary legislation on privacy, data protection, cybersecurity, cybercrime, cyberterrorism?**

A: Yes. The Personal Data Protection Act ("PDPA"), Cyber Security Management Act ("CSMA"), and their related sub regulations.

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**Q: What are the fields of law closely related to privacy and data protection that are regulated in the [ Country ] jurisdiction? (e.g. e-commerce, telecommunications, media, intellectual property, etc.).**

A: Although Taiwan's earliest efforts at protecting personal data focused on the health and financial sectors, over the past several years the laws have expanded their reach to all areas in which personal data may be handled. In particular, e-commerce, telecommunications, employment, M&A, and marketing/advertising law.

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**Q: What are the key definitions in the field of data protection (e.g. Personal Data, Sensitive Data, Data Processing, Data Controller, Data Subject, Pseudonymised Data, Anonymised Data, Processing or any other definition)?**

A: Personal Data, Sensitive Data, Collecting, Processing, Using, Data Controller, Data Subject, Government Agency, Non-Government Agency and Cross-Border Transfer.

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**Q: In particular, is there a distinction between identifiable, pseudonymised and anonymised data and if so, how are they regulated?**

A: There is no such distinction in Taiwan. However, if information cannot be linked to a person's identity, it is not considered personal data protected by the PDPA.

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**Q: Is there a national Data Protection Authority?**

A: No. The competent authority of each industry sector serves as the governing authority. However, the National Development Council acts as a window for the PDPA.

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**Q: Which national judicial authorities are competent on privacy and data protection related matters?**

A: The Taiwan courts are within the Judicial Yuan ("Yuan" meaning branch of government), but Taiwan does not yet have any specialized courts handling privacy matters. The competent authority of each industry is the governing authority. However, the National Development Council acts as a window for the PDPA.

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**Q: Is there a one-stop-shop mechanism in place?**

A: No.



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**Q: What are the main enforcement measures?**

A: Administration sanctions and criminal responsibility.

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**Q: What are the actual main sanctions?**

A: Administration fines and criminal fines.

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**Q: Is there a supra-national applicable legal framework? If the answer is positive, is it binding and to what extent?**

A: The PDPA, which applies nationally.

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**Q: Does any foreign authority have jurisdiction on privacy and data protection matters for citizens of [ Country ]? If the answer is positive, do they have executive or advisory authority?**

A: No.

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**Q: Are there e-discovery or disclosure duties pursuant to a request from a foreign Law Enforcement Agency?**

A: No.

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**Q: Are privacy-by-design and privacy-by-default mandatory?**

A: No.

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**Q: Are data protection officers (DPOs) foreseen by law and if so, to what extent?**

A: No.

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**Q: Are data protection impact assessments (DPIAs) mandatory and if so, to what extent?**

A: No.

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**Q: Is there any obligation to register databases and if so, to what extent?**

A: No.

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**Q: Are definitions like controller, processor, regulator clearly defined and identifiable within the [ Country ] regulatory framework?**

A: No.

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**Q: Are there obligations to adopt reasonable technical, physical and organizational measures to protect the security of sensitive personal information and if so, to what extent?**

A: Yes. Pursuant to Article 6.1 of the PDPA, sensitive personal data cannot be collected, processed or used unless where the law requires, where it is within the necessary scope for a government agency to perform its statutory duties or for a non-government agency to fulfill its statutory obligation, or where the data subject consents.

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**Q: Are there security breach notification requirements and if so, to what extent?**



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A: Yes. Pursuant to Article 12 of the PDPA, if any personal data is stolen, disclosed, altered, or otherwise infringed upon due to a violation of the PDPA by a government or non-government agency, the data subject shall be notified via appropriate means after the relevant facts have been clarified.

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**Q: Can authorities access large amounts of data and/or specific data without a court or prosecutor's order?**

A: Yes, this is possible.

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**Q: Are there specific kinds of data covered by stronger provisions on legal protection (e.g. children data, etc.)?**

A: No.

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**Q: Is there a specific regulation for the collection of data?**

A: No.

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**Q: Is it possible to use personal data for electronic marketing purposes and if so, to what extent?**

A: Yes. However, according to Article 20.2 of the PDPA, a non-government agency, when using the data subject's personal data for marketing purposes, shall (1) cease using the data upon the data subject's objection to such use; (2) provide the data subject of the ways that he/she can object to such use, with the agency covering the fees therefrom.

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**Q: Is transfer of data outside the [ Country ] jurisdiction regulated?**

A: Yes, in Article 21 of the PDPA.



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**Q: Can individuals access their data and request their correction or deletion?**

A: Yes, pursuant to Article 11 of the PDPA.

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**Q: How can individuals exercise their privacy rights?**

A: Pursuant to Article 3 of the PDPA, an individual has the right to make an inquiry of, to review, to request a copy of, to supplement or correct, to demand the cessation of the collection, processing or use of, and to erase the personal data.

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**Q: Are there associations entitled to advocate privacy and data protection rights?**

A: No.

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**Q: Is access to data regulated according to specific and detailed legal acts stating legal requirements to exercise the right to access, e.g. timeframe, identity and categories of legitimate applicant, templates for various forms of request, obligations of the requested entity etc.?**

A: No.

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**Miscellaneous: Any other information particularly important in the [ Country ] jurisdiction [ if necessary, please explain why this additional information is provided and which is its relevance ].**

A: Article 195 of the Civil Code provides that if a person has wrongfully damaged the privacy of another, or to another's reputation in a severe way, the injured person may claim reasonable monetary compensation even if such injury is not a purely pecuniary loss.



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