

Survey of Public Registers Maintained by Government and Public Bodies

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Introduction

Public registers

1.1. For the purpose of this exercise, a “public register” means any set of records which:-

- (a) is kept in a systematic form;
- (b) contains personal data, that is, information relating to living individuals from which such individuals may be identified;
- (c) is maintained pursuant to primary or subsidiary legislation; and
- (d) is made available for public access, either at a fee or free of charge. “Access” includes online inspection and obtaining copies of the whole or part of the record.

Examples of “public registers” are lists of registered professionals published in the Gazette, the Land registers kept by the Land Registry and notifications made by persons intending to marry to the Marriage Registry.

Public domain personal data is protected under the law

1.2 Public registers have long posed a tension between citizens’ privacy rights and the need to make certain information publicly available to serve some public purpose.

1.3 Some people have said that there is no “copyright” in public domain information. Others have misguidedly argued that since the data is out in the open, it is no longer “secret” and hence warrants no protection. But keeping data confidential or observing the duty of confidence is not exactly the same as protecting personal data. The former is a duty based on contractual or fiduciary relationships. The latter is a manifestation of the fundamental right to privacy protected under the Basic Law.

1.4 Personal data, be it publicly available or not, is subject to protection under the Personal Data (Privacy) Ordinance (the “**PDPO**”).

1.5 Prior to the enactment of the PDPO in 1995, the Law Reform Commission had carefully deliberated on whether public registers should be exempted completely from the PDPO and concluded that it should not. In the public consultation exercises leading to the latest amendments to the Ordinance (effective 1 October 2012 and 1 April 2013), the Government reaffirmed the view that “putting personal data in the public domain does not make the data available for use for any purpose”. This was upheld in a Court of Appeal judgment delivered in February 2013 (*Re Hui Kee Chun*, CACV 4/2012).

1.6 The most relevant provision in the PDPO which regulates the use of personal data in the public domain is Data Protection Principle 3 (“**DPP3**”). This is a use limitation principle which provides that personal data should only be used for the purposes for which it was collected or a directly related purpose, unless the explicit and voluntary consent of the data subject is obtained.

1.7 The starting point for an application of DPP3 is thus the original purpose of collecting the personal data and making it publicly available. Public registers are normally set up by statutes. Ideally, the purpose of a public register should be stated as specifically as practicable in the enabling legislation. The personal data collected from the public register can normally be used only for purposes in line with or directly related to the purpose of setting up the public register.

Data protection necessary to guard against privacy risks

1.8 Personal data in the public domain, if used without regard to the original purpose of collecting the data and making it publicly available, or without appropriate safeguards, would attract a series of privacy risks, thus jeopardizing the interests of the data subjects.

1.9 For example, the unfettered access to information sources like the Companies register, Land register, and Register of vehicles would put sensitive data such as Hong Kong identity card numbers, full residential addresses and signatures at stake. If the data was exploited by persons with malicious intent,

the data subject would suffer the risks of financial loss, identity theft and personal safety (through stalking and surveillance).

1.10 In addition, there are risks of “function creep”, where data collected for one purpose is gradually used for other purposes to which the individual has not consented. For example, public registers may provide a useful, reliable, convenient and cheap source of information to direct marketers and data miners¹.

1.11 Further, rapid advances in information and communication technologies, which support aggregation, matching and further processing of data in the public domain, pose unique privacy risks. Personal data spread over separate public records may be seen as innocuous. But viewed in combination after aggregation, they may paint a portrait of the individuals, and greatly increase their vulnerability to a variety of dangers, for example, human flesh search followed by cyber-bullying.

1.12 Moreover, when personal data from various sources (including public domain) are aggregated to profile individuals and important decisions and inferences about the individuals are made based on the profiles, there are risks of injustice and discrimination². These are caused by collecting or linking data originally intended for different purposes, and not always keeping the individuals in the loop.

1.13 The Privacy Commissioner for Personal Data (“PCPD”) identified such risks during an investigation in 2013 which involved the compilation of bankruptcy and litigation records of individuals by a data broker based on the Judiciary’s daily cause lists and cause books as well as the bankruptcy order notices in the Government gazette. Subscribers to a smartphone application were enabled to search such records by name and view the combined data in one go but there was no guarantee as regards the reliability and validity of the data. The data subjects concerned could therefore be harmed unknowingly when the data was used, for example, for checking their employability or

¹ See, for example, the PCPD’s investigation report of 14 February 2012 at https://www.pcpd.org.hk/english/news_events/media_statements/press_20120214c.html concerning a case of collection of vehicle owners’ personal data from the Register of Vehicles by a car park company for promoting monthly parking privileges.

² For elaboration of these risks, see “The Privacy Ramifications of Big Data” in the Commissioner’s Blog dated 28 April 2015 at https://www.pcpd.org.hk/english/news_events/commissioners_message/blog_28042015.html

credit-worthiness³.

Government accountability

1.14 Generally, people can choose how much interaction they want with society and in the process, how much personal information they want to divulge. But this choice is often denied with public registers maintained by the Government when citizens surrender their personal data for specific purposes (such as registering as voters, recording births and marriages, purchasing properties, owning companies, driving a motor vehicle). It is imperative therefore the public registers are set up only where they would serve legitimate purposes and the information is used only for purposes relevant to its collection. If the Government allows, or does not prevent, the indiscriminate use of the information, it would fail in its accountability to protect the data and the aggrieved or harmed citizens would lose their trust in the Government.

Guidance issued by the Government

1.15 In this regard, the PCPD notes that in order to ensure that the administration of public registers by Government bureaux and departments complies with the requirements under the PDPO, on 30 December 2000, the Home Affairs Bureau⁴ issued a memorandum, titled “*Review of Public Registers*” (the “**Memo**”), to the heads of all Government bureaux and departments, providing guidelines on the protection of personal data in relation to existing and new public registers maintained / to be maintained by them. For ease of reference, the Memo and the guidelines are collectively referred to as “**the Guidelines**”. As of today, the Guidelines are subsisting.

1.16 The Guidelines emphasise the importance to:

- (i) confirm that the public registers are set up to serve legitimate purposes;
- (ii) specify the purposes of the public register in the relevant legislation;
- (iii) provide for legislative measures and (as an interim arrangement) administrative measures to safeguard against the use of the personal

³ For details, refer to investigation report at http://www.pcpd.org.hk/english/publications/files/R13_9744_e.pdf

⁴ Since July 2007, the Constitutional and Mainland Affairs Bureau has taken over from the Home Affairs Bureau the policy area of personal data protection.

- data collected from the public registers for unrelated purposes;
- (iv) inform data subjects of the specified purposes of the public register;
- (v) collect or disclose personal data only as necessary to fulfill the specified purposes of the public register;
- (vi) advise persons accessing the public register to use personal data therein only for purposes related to the specified purposes;
- (vii) limit search keys (to information contained in the public register) to those that are required to fulfill the specified purposes;
- (viii) disclose public register information in bulk only when to do so is compatible with the purpose for which the information therein is made available; and
- (ix) comply with the data subject's request for access or correction of his personal data.

The survey

1.17 With a lapse of 14 years since the Guidelines were formulated and the intensification of the privacy risks brought about by advances in information and communication technologies, the PCPD considered it opportune to review the extent of compliance with the Guidelines by government public registers. For this purpose, a survey was conducted in 2014.

1.18 The survey comprises two parts:

Part I : a general examination of new legislation enacted and existing legislation amended between 1 January 2001 and 31 March 2014; and

Part II : a targeted survey of the operation of ten public registers.

Caveat

1.19 Nothing in this report shall be construed or taken to represent the exhaustive views of the PCPD to regulate the personal data made available in the public registers in compliance with the requirements under the PDPO. The recommendations made in this Report shall not prejudice or affect the exercise of the regulatory functions and powers conferred upon the PCPD under the PDPO.

Part I of the survey :

Examination of the legislation enacted or amended between 1 January 2001 and 31 March 2014, that established public registers

The survey process

2.1 In total, the PCPD screened 368 newly enacted and existing ordinances (and some related regulations) amended (mere consequential amendments excluded) during the period from 1 January 2001 to 31 March 2014. As a result, 82 ordinances (and related regulations) were identified which contain express provisions that make available personal data⁵ of individuals for public inspection, either through the creation of registers or by way of public notice, such as gazette. Owing to resource constraints, the legislations screened are confined to the principal ordinances and some related regulations.

2.2 All the 82 relevant ordinances (and related regulations) that establish public registers were examined to find out whether the following aspects of the Guidelines were followed, namely:

(a) That the purpose of the public register is specified in the legislation providing for the establishment of the public register.

The Guidelines remind the heads of the Government bureaux and departments that the purposes of a public register should be stated as specifically as practicable in the legislation that establishes it. Secondary uses of the personal data (e.g. for law enforcement, public health and safety, taxation and research purposes), which should be allowed on public interest grounds, should also be specified.

(b) That measures should be introduced in the relevant legislation to safeguard against possible use of the public register for unrelated purposes.

The Guidelines ask the heads of the Government bureaux and departments to consider including provisions in the legislation to: (a) impose sanctions

⁵ When screening the legislation to identify public registers that contain personal data, the PCPD only examined the relevant legislation to determine whether, on the face of it, personal data may be contained in the register.

against the improper use of the personal data; (b) specify the purposes for which the data may be requested, and to limit the class of persons entitled to make requests; and (c) require requestors to declare in writing the intended use of the information requested.

Survey results, observations and recommendations

2.3 The survey results are summarised at **Annex I**.

2.4 Of the **368** ordinances (and related regulations) that were screened, **82** (75 ordinances and 7 regulations) contain provisions that make available personal data of individuals for public inspection.

2.5 Only **32** of the 82 ordinances (and related regulations) specifically spell out the purposes of the publication of the data and/or the permissible use or secondary use of such data.

2.6 Only **5** of the 82 ordinances (and related regulations) contain explicit provisions introducing measures to safeguard against possible misuse of the personal data.

2.7 The PCPD is not sure whether the apparent non-compliance represents an omission or the outcome of conscious decision.

Recommendation 1 :

The PCPD recommends the Government to establish a dedicated organisational structure and mechanism to oversee and monitor compliance with the Guidelines by the various Government bureaux and departments, particularly in regard to the required legislative enactment or amendment.

The PCPD envisages the Department of Justice, which occupies a gate-keeping position in the legislative process, could play a useful role in the monitoring process.

Part II of the survey :

Examination of ten targeted public registers

The registers

3.1 The following ten commonly-used registers were selected for more detailed examination under this survey:

Name of the register	Maintained by
(i) Bankruptcy register	The Official Receivers' Office
(ii) Births register	Immigration Department
(iii) Business register	Inland Revenue Department
(iv) Companies register : particulars of directors and index of directors	Companies Registry
(v) Land registers	Land Registry
(vi) Marriage register	Immigration Department
(vii) Register of notice of intended marriage	Immigration Department
(viii) Register of licensed persons of securities, futures and leveraged foreign exchange intermediaries ("SFC register of licensees") which are maintained by the Securities and Futures Commission ("SFC") ⁶	SFC

⁶ PCPD is not sure whether the Guidelines apply to this register but since the Guidelines serve as a

(ix) Register of vehicles	Transport Department
(x) Registers of electors	Registration and Electoral Office

The examination

3.2 The PCPD’s staff visited the offices and websites of the operators of the registers to ascertain the extent of compliance with all the Guidelines except those referring to compliance with the data subject’s request for access or correction of his personal data. In addition, written requests were made to the operators for clarification of the PCPD’s observations, and for provision of information as regards the legislative and administrative measures they have adopted or planned to comply with the Guidelines. The information gathered was analysed and as a result, recommendations are made in this report to safeguard against the improper use of personal data contained in public registers through enhanced compliance with the Guidelines.

The personal data available for public inspection in the registers

3.3 The kinds of personal data that are made publicly accessible in the registers encompass information such as the individual’s status (e.g. a bankrupt, a person intending to marry, a business proprietor, a voter), assets ownership (e.g. landed properties, vehicles), qualifications (e.g. company directorship, registered licensee) and personal records (e.g. birth and marriage records).

3.4 **Annex II** lists the personal data that are publicly accessible through the registers.

useful benchmark for assessing the level of data protection in general, this register is included in the survey as if the Guidelines apply.

Part II of the survey :

Findings, observations and recommendations

4.1 In general, the registers are administered in accordance with the law, have Personal Information Collection Statement and statements of purpose to be acknowledged by searchers, but there is room for improvement.

(A) **Confirm whether there are legitimate purposes to introduce the public register**

4.2 The disclosure of an individual's personal data to the public is itself an invasion of his privacy. Therefore, a public register should be introduced only where it would serve legitimate purposes. The factors to be taken into account in deciding the establishment of a public register include: what public interest is served by such disclosure, whether the circumstances give rise to a reasonable expectation of privacy on the part of the data subject and whether disclosure would be offensive to reasonable persons.

4.3 **Annex III** shows the purposes of the ten registers as reported by the register operators in our survey. The PCPD has no reason to doubt that they serve legitimate purposes.

(B) **Specify the purposes of the public register in the relevant legislation**

4.4 According to the Guidelines, the purposes of a public register should be stated as specifically as practicable in the legislation that establishes it. Secondary uses of the personal data (e.g. for law enforcement, public health and safety, taxation and research purposes), allowed on public interest grounds, should also be specified.

Survey results and observations

4.5 The results of the survey (at **Annex IV**) show that the purposes of the registers are specified in the respective legislations for only four of the ten registers. For instance, the purpose of the SFC register of licensees is

explicitly and specifically mentioned in section 136(4) of the Securities and Futures Ordinance, Cap.571, Laws of Hong Kong (i.e. *“for the purposes of enabling any member of the public to ascertain whether he is dealing with a licensed person or a registered institution in matters of or connected with any regulated activity and to ascertain the particulars of the licence or registration of such person or institution (as the case may be), the register shall be made available for public inspection at all reasonable times”*).

4.6 For the remaining six registers, the PCPD notes that the respective legislations have been amended since the issue of the Guidelines in 2000 but the PCPD has no knowledge as to why the opportunities were not taken to incorporate provisions to specify the purposes of the six registers.

4.7 **Annex V** provides a summary of the responses given by the operators of the six registers when asked about the timetable to introduce the required legislative provisions. In short, none of them has any concrete plan in this regard. Some of them even displayed complacency about the status quo by referring to the long titles of the relevant legislations or the registers’ general functions and activities as the basis from which the purposes of the registers can be inferred. For instance, in the case of the Land registers, the preamble of the Land Registration Ordinance, Cap 128, Laws of Hong Kong that, *“it is expedient to prevent secret and fraudulent conveyances, and to provide means whereby the title to real and immovable property can be easily traced and ascertained”* was considered relevant. Another example is found in the case of the Register of vehicles where the long title of the Road Traffic Ordinance Cap. 374, *“to provide for the regulation of road traffic and the use of vehicles and roads (including private roads) and for other purposes connected therewith”*, was considered instrumental in construing the purpose of the register.

4.8 Since the objectives of a piece of legislation can canvass functions and activities wider in scope than the mere provision of a public register, its long title which specifies the general purpose of the legislation cannot be a good substitute for explicit and specific provisions for defining the purposes of the registers. A more proactive and focused approach on the part of the register operators is recommended.

Recommendation 2:

To ensure that serious consideration will be given in future legislative enactment or amendment processes to incorporate explicit and specific purposes of public registers, the PCPD recommends to introduce a “personal data clearance clause” in the law drafting process, in line with the “human rights clearance clause” and the “basic law clearance clause”, and to assign the Department of Justice to take up the gate-keeper role.

(C) **Consider providing for, in the legislation, measures to safeguard against possible use of the personal data obtained from the register for unrelated purposes**

4.9 In order to address the difficulties in limiting the subsequent use of the personal data contained in the public register to its intended or directly related purposes, the Guidelines advise the Government bureaux and departments to consider including in the legislation, provisions to: (a) impose sanctions against improper use of the personal data; (b) specify the purposes for which the data may be requested and limit the class of persons entitled to make requests; and (c) require the requestors to declare in writing the intended use of the information.

4.10 The Guidelines also advise that pending the introduction of legislative amendments, administrative action not inconsistent with the existing legislation should be taken to limit the subsequent use of the personal data.

Survey results and observations

4.11 In brief, compliance with the Guidelines has not been particularly enthusiastic. As far as legislative safeguards are concerned, the Registers of electors are the only example of compliance with the Guidelines. The relevant sections⁷ prescribe that the use of voters’ personal data kept in a

⁷ Section 22(3) of Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation, Cap 541A, Laws of Hong Kong; section 42(3) of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election

Register of electors for any purpose other than a purpose related to the election is an offence. As far as administrative safeguards are concerned, the Register of vehicles provides the only example of compliance with the Guidelines. The Commissioner for Transport requires an applicant who applies for a Certificate of Particulars of Motor Vehicle to declare the intended use of the Certificate, i.e. legal proceedings, sale and purchase of vehicles or other purposes. If the applicant knowingly provides false information, it constitutes a criminal offence punishable by law⁸.

4.12 **Annex VI** summarises the responses to the question raised by the PCPD as regards why legislative provisions have not been introduced as recommended in the Guidelines. In most cases, the operators responded vaguely that the relevant legislative provisions would be introduced “*when an opportunity arises*”. Some operators found it “*premature*” to introduce legislative amendments, and others sought to rely on the provisions of the PDPO to give general protection to the data subjects. The right of a data subject to seek civil redress under section 66 of the PDPO was also cited by some operators as a civil remedy for an aggrieved data subject.

4.13 It is important to note that while the PDPO serves to provide general protection (subject to exemptions) to all personal data and sets minimum standards for sanctions against wrongful collection and misuse of personal data, it may not be adequate or appropriate for safeguarding against the misuse of personal data obtained from the public registers. As recommended in the Guidelines, due regard should be given to the sensitivity of the types of personal data concerned and the potential adverse effect which any improper use would have on the data subjects.

4.14 It should be borne in mind that breach of a Data Protection Principle under the PDPO *per se* is not an offence. The remedy is for the PCPD to serve an enforcement notice on the data user to cease the malpractice and take steps to prevent its recurrence. It is possible that improper use of some personal data obtained from some public registers warrant stiffer sanctions such as criminal offences or civil penalties. Due deliberations should not be brushed aside lightly.

Committee) Regulation, Cap 541B, Laws of Hong Kong; and section 32(3) of the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation, Cap 541K, Laws of Hong Kong.

⁸ Section 111(3) of the Road Traffic Ordinance, Cap 374, Laws of Hong Kong

4.15 The present state of affairs is unsatisfactory, particularly for those registers (see paragraph 4.23 below) where the register operators seemingly have no discretion to reject a request for data access, and data protection is therefore dependent wholly on safeguards against misuse.

Recommendation 3 :

The proposed dedicated body responsible for overseeing and monitoring compliance with the Guidelines (see Recommendation 1 above) should ensure that bureaux and departments do capitalize on any future legislative process to consider incorporating provisions to safeguard against misuse of personal data in public registers. Meanwhile, it should consider drawing up a timetable for the public register operators to formulate administrative safeguards as an interim measure.

(D) Inform data subjects of the specified purposes of the public register

4.16 The Guidelines advise that on or before the collection of personal data from the data subjects, a Personal Information Collection Statement (“**PICS**”) should be published by the Government bureau / department operating the public register to inform the data subjects that their personal data is disclosed in the public register, and to give a clear indication of the purpose of the register as specified in the legislation.

Survey results and observations

4.17 The results of the survey are set out in **Annex VII**. The PCPD notes that in all registers, a PICS is published for the benefit of the data subjects. However, in terms of clarity and adequacy of the information communicated to the data subjects so that they understand that their personal data will be disclosed to the public and the purpose for public disclosure, there is clearly room for improvement in a number of cases.

4.18 The best example of an effective PICS is probably the Companies register and this should be no coincidence because the major overhaul of the Companies Ordinance in recent years have provided an impetus for the Government to consider and decide on the purposes of maintaining the register and making publicly available the personal data of company directors.

4.19 In many other cases, the message conveyed in the PICS is less clear. The emphasis is more on why the operators require the personal data and less on why the data needs to be disclosed to third parties. In three cases, namely, the Bankruptcy register, the Business register and the Marriage register, there is no specific mentioning at all that the data can be made available to the public.

4.20 The PCPD further notes with concern that in the case of the Marriage register, the data subjects are requested to provide additional personal data for the purpose of compiling statistics and research purposes, but they are not explicitly informed in writing that provision of the additional data is voluntary⁹. The bride and bridegroom are asked to provide “*marriage statistics*” on Form MR21B which include the type of visa (for a non HK permanent resident), number of previous marriage(s), the date of last marriage, the date of last divorce/last spouse’s death, the country of previous residence, the country of origin, education level, etc. The PICS provided in Form MR21B does not state that the provision of the marriage statistical data is not mandatory, but voluntary on the part of the parties to the intended marriage. As such, they might misunderstand that the provision of the additional data is obligatory.

Recommendation 4:

Where appropriate, the operators of the registers should improve their PICS to explain clearly to the data subjects why their personal data needs to be made available to the public.

In the case of the Marriage register, additional personal data is required for statistics and research purposes, the data subject shall be informed in writing that the supply of the data is voluntary.

⁹ Pursuant to DPP1(3)(a)(i), a data user is required to take all practicable steps to ensure that the data subject is explicitly or implicitly informed, on or before collection the data, of whether it is obligatory or voluntary for him to supply the data.

(E) Do not collect or disclose more personal data than is necessary to fulfill the specific purposes of the public register

4.21 According to the Guidelines, the data to be collected and disclosed in the public register should be specified in the relevant legislation. The types of personal data specified should be no more than necessary to fulfill the specified purpose of the register. Furthermore, the fact that a particular type of personal data is collected does not mean that the data should automatically be published in the register. Certain personal data may be required purely for the Government bureaux/ departments' internal use.

Survey results and observations

4.22 The disclosure of three types of particularly sensitive personal data were reviewed, namely, identification document number, residential address and occupation. As indicated in **Annex VIII**, these three types of data are commonly disclosed among the registers. Public access must therefore be properly controlled.

4.23 The PCPD notes that the establishing legislations of eight registers (namely, Bankruptcy register, Business register, Births register, Companies register, Land registers, Register of notice of intended marriage, Register of vehicles and the SFC register of licensees) contain provision imposing a duty upon the relevant operator to provide specific kinds of personal data upon a search request and payment of fee. For example, the Companies Registrar must keep an index of every person who is a director of a company, and the particulars that must be included in the index are the name and address of the director, the latest particulars sent to the Companies Registrar in respect of the director and the name of each company of which the director can be identified as a director¹⁰. The index must be open for inspection by any person on payment of a prescribed fee¹¹. In other words, it seems that the operators concerned have no discretion in responding to requests for inspection; they have to comply with each and every request. Safeguards against subsequent misuse of the data become the first line of defence (see paragraph 4.11 above).

¹⁰ Section 647(1) and (2) of the Companies Ordinance, Cap 622, Laws of Hong Kong

¹¹ Section 647(3) of the Companies Ordinance, Cap 622, Laws of Hong Kong

4.24 For the remaining two registers (namely, the Marriage register and Registers of electors), the operators' duty to provide specific kinds of personal data or full copy of the relevant document upon request is loosely defined, meaning it has definite discretionary power in this regard. In the case of the Registers of electors, the Electoral Registration Officer "*may make available an extract from such published register for any purpose related to an election to any person that Officer considers appropriate*"¹². The Registration and Electoral Office confirmed that before a public member can inspect the Registers of electors, he is required to fill in an inspection form, state the parts of the registers (i.e. the whole or extracts thereof) requested for inspection, the purpose of obtaining the extracts and the particular election which the requested information is intended to be used. The responsible officer in the Registration and Electoral Office will consider the request independently, and legal advice from the Department of Justice will be sought if necessary. It has not been suggested to PCPD that the Registration and Electoral Office maintains an explicit policy governing how such requests for information will be entertained.

4.25 Similarly, section 26(1) of the Marriage Ordinance empowers the Registrar of Marriages that he "may" allow searches by members of the public to be made of the certificates, licences, registers and indexes in his possession and to give a certified copy of any entry therein. The PCPD was advised by the Immigration Department that there is no policy in place controlling the kinds of personal data to be released and or restricting the class of persons to search for marriage records or issue of certified copy of marriage certificate. The search requestor (if not the data subject) will simply be asked to acknowledge a notice that states the intended use of the personal data contained in the records or certificates should comply with the PDPO. This vague friendly reminder is clearly inadequate. It also represents an abdication of the responsibility of a data user entrusted with the data subjects' personal data to manage and control the data.

4.26 The PCPD notes that some types of personal data, though specified in the statutory form as data to be collected and disclosed are, in practice, no longer collected from a data subject. This is illustrated in the case of the Notice of Intended Marriage (Form 1), a form prescribed under Schedule 1 to

¹² Section 21(1) of Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation, Cap 541A, Laws of Hong Kong

the Marriage Ordinance. In this statutory form, the occupation and residential address in full of the parties are collected. According to the Registrar of Marriages, administrative measures, taken since November 2002, allow the marrying parties to state only the street name and district, instead of inputting the full address. They are also allowed to mark an asterisk in the column for “occupation” instead of inputting a substantive entry. These administrative arrangements underlie the fact that the collection of the full residential address and the occupation of the parties are no longer necessary and the need to update the statutory form. In any event, the PCPD welcomes this bold initiative adopted by the Government in the interim to limit the disclosed personal data to what is necessary to fulfill the specific purposes of the public register.

Recommendation 5 :

- The legislations governing the types of personal data to be collected and publicly disclosed should be updated to reflect the actual need.
- Where operators of the registers have discretionary powers to disclose the requested data, they should devise policies and practices to ensure that the personal data disclosed in compliance with a request is not more than necessary for the purpose of the registers.
- When providing personal data of a sensitive nature (such as identification documents and residential addresses), operators of Registers should explore less privacy-intrusive means of public disclosure of the data, for example, the provision of partial (instead of full) identification document number and the provision of correspondence address or incomplete address (instead of full residential address).
- In particular, the PCPD suggests it is opportune for the Government to resurrect its earlier proposals to limit the disclosure of identification numbers and residential addresses of company directors filed with the Companies Registry. The Government has shelved these proposals in March 2013 with the pledge that they would be examined again after the new Companies Ordinance has been brought into operation in 2014¹³.

¹³ Further information can be found in the paper on “New Arrangement for the Inspection of Personal

(F) **Advise persons accessing the public register not to use the personal data therein for any purpose unrelated to the specified purposes**

4.27 The Guidelines advise that steps should be taken by the Government bureaux /departments to ensure that all persons accessing or requesting access to a public register are aware of the specified purposes of the register and the need to confine the subsequent usage of the data collected from the register to such purposes. This can be done, for example, by:

- printing the specified purposes on the search records or on a separate sheet to accompany the search records;
- displaying the purpose statement and use limitations on the home page of the register where online access to a public register is provided; or
- where the public register is published in gazette notices in the form of a legally prescribed form, including the specified purpose statement in the prescribed form.

Survey results and observations

4.28 Our survey (results in **Annex IX**) indicates that, with the exception of the Register of notice of intended marriage, all register operators have taken steps to inform the persons accessing or requesting to access the registers the specified purposes of the registers and the need to confine the subsequent usage of the data to such purposes.

4.29 In the case of the Register of notice of intended marriage, the PCPD notes that no reference is made to the purpose of inspection of the notices throughout the process of inspection which takes place in the Marriages Registries by reviewing the webpages of onsite computers. This is an omission which needs to be rectified.

4.30 The PCPD notes that the notification to the person accessing a public register is conveyed through various means including application for search, acknowledgement of compliance with the PDPO, notices and terms and

Information on the Companies Register under the new Companies Ordinance” submitted by the Financial Services and the Treasury Bureau to the Panel on Financial Affairs of Legislative Council on 28 March 2013: LegCo paper CB(1)788/12-13 (01), available at http://www.cr.gov.hk/en/companies_ordinance/docs/papers-e.pdf

conditions for the search service, as well as search results. The PCPD is pleased that it is not uncommon for one register to adopt more than one communication means thus serving both an alert and a reminder purpose. The PCPD is particularly pleased that some registers (Births register, Marriage register, Registers of electors and Register of vehicles) require the requestors to acknowledge the notification and to note the adverse consequence of misuse of the requested information.

4.31 The Register of vehicles provides an example for other registers to consider following. It reminds the requestor on the search application form that all information provided “... *should only be used for activities relating to traffic and transport matters*”. The requestor is also required to declare the purpose of use of the information by selecting the check boxes of “(i) *legal proceedings, (ii) sale and purchase of vehicles, and (iii) others, please specify.*” The giving of a false statement or information in any material particular by the applicant is an offence punishable under the Road Traffic Ordinance.¹⁴ In sum, this approach generates a very strong message to guard against misuse of the requested information.

4.32 For online access to a public register, the Guidelines only require the home page to include the specified purposes of the register and the use limitations. This begs the question of ensuring the requestor does read and understand this homepage message. The PCPD notes that commonly the registers require the requestor to acknowledge the message, among other terms and conditions, before access is allowed. However, the SFC register of licensees is an exception. Online searchers are not required to indicate whether they have read the terms and conditions imposed by the SFC (including the notice given under “*Important Legal Information*” relating to the purpose of use of the data requested) before proceeding with the search.

Recommendation 6 :

- In the case of the Register of notices of intended marriages, measures should be devised to draw the attention of the person accessing the register to the purpose of inspection of the notices and the use limitations;

¹⁴ Section 111(3) of the Road traffic Ordinance, Cap 374, Laws of Hong Kong

- The best practices adopted by some registers should be followed by others, where appropriate. These include requiring the requestor to (i) acknowledge the notification as regards the purpose of the register, the use limitations and the adverse consequences of misuse of requested information; and (ii) to declare the intended use of the requested information; and
- In particular, in the case of the SFC register of licensees, online requestors should be required to indicate that they have read the notification before proceeding with the search.

(G) **Limit the search keys to those that are required to fulfill the specified purposes**

4.33 The Guidelines advise Government bureaux /departments to introduce search keys in line with the specified purposes of the public registers. Any search keys adopted should not be more powerful than is required for the said purposes¹⁵. Where public register information is made available to a search requestor through online transmission or an electronic copy, steps shall be taken to prevent the re-configuration of the data which, in conjunction with a new search key, may enable the use of the data in a privacy intrusive manner. Hence, for bulk supply of register information, the Guidelines recommend that the service agreement should include a clear prohibition against the manipulation of the data in such a manner; and a provision to the effect that the agreement may be terminated if such prohibition is violated.

Survey results and observations

4.34 The registers which provide online search services or electronic copy and the measures adopted to limit the search keys and prohibit manipulation of data are set out in **Annex X** of this Report.

4.35 Online access service to personal data is provided by the Bankruptcy register, Business register, Companies register, Land registers, the SFC register

¹⁵ For example, a search key would be more powerful than is required if it enables a member of the public to search the Land Registry's records by reference to the owner's name. With such a search key, a requestor can draw up a list of properties owned by a particular person, which is not related to the original purpose of establishing the land register.

of licensees and Register of vehicles. Also, although no online search service is offered, the electronic copy of the personal data contained in the Registers of electors may be sent to the requestor upon request.

4.36 It is generally observed that the operators of the registers offering online searches have set some search key limits in facilitating online access. The search criteria in some registers are more restrictive as they require the input of the name and identification document number of an individual. This is the case for the Bankruptcy register. For searches conducted about the directors' particulars and the directors' index, the search keys used are confined to company-based (i.e. by input of company name) and director-based (i.e. by input of the name of the director). HKID number of a director is not used as a search key in the Companies register. More liberal search criteria are adopted by some Registers. For example, for the registers of licensees maintained by the SFC, requestors inputting an alphabet will generate a full list of licensees with the alphabet as the prefix of their names. Prima facie, the PCPD sees no objection to this approach.

4.37 As indicated in Annex X, there are only three registers which arrange bulk supply of register information, namely, Business register, Land registers and Registers of electors. All these three registers have service terms and conditions which prohibit against the misuse of requested data, including the manipulation or re-configuration of the data. The former two registers also possess technical safeguards against data re-configuration.

(H) Do not make bulk disclosure of public register information except where this is compatible with the purpose for which the information therein is made available

4.38 The Guidelines advise against the bulk disclosure of personal data held by a public register unless there are strong reasons supporting such disclosure.

Survey results and observations

4.39 The survey results for the three registers which arrange bulk supply of register information are indicated in **Annex XI**. They all have grounds supporting bulk disclosure the legitimacy of which the PCPD has no reasons to doubt.

End Note

5.1 Public registers serve legitimate purposes in making data publicly accessible. At the same time, they also provide a rich source of personal data which is subject to the risks of commercial exploitation and fraudulent use. Against this backdrop, the Government has an important leadership role to play in safeguarding the data it collects from the citizens on a mandatory basis. The Guidelines it has formulated in 2000 for protecting personal data contained in public registers remain current and relevant. It is imperative for the Government bureaux and departments operating public registers to follow the Guidelines religiously. This responsibility is all the more important in the modern era of "Big Data" when advances in technologies have aggravated the attendant privacy risks.

5.2 The PCPD hopes that the Government will give due consideration to the recommendations in this review report and take appropriate follow-up action not just for the 10 public registers reviewed but all other public registers under its control.

5.3 The Government will wish to refer to our "Guidance on Use of Personal data from the Public Domain" issued in August 2013¹⁶.

¹⁶ Available at PCPD's website
(http://www.pcpd.org.hk/english/resources_centre/publications/files/GN_public_domain_e.pdf)

Consolidated Table on Compliance with HAB's Memo on Public Registers by Government Bureaux and Departments

Cap. No.	Public Register maintained pursuant to Ordinance		Specific Purpose and/or Limitation of Subsequent Usage of Personal Data in Ordinance	Safeguards against misuse (e.g. Sanction against improper use / limited class of person for access/ require written declaration for intended use, etc.)
6	s.16 of Bankruptcy Ordinance	Gazetted Bankruptcy orders of individuals	X	X
32	S.168R of Companies Ordinance (the predecessor Ordinance of Cap. 622)	Register of disqualification orders	✓	X
41	S.66 and s.69 of Insurance Companies Ordinance	Register of Appointed Insurance Agents, Register of Authorised Insurance Brokers and Register of licensed insurance intermediaries	X	X
50	S.22 of Professional Accountants Ordinance	Register of certified public accountants	✓	X
84	S.8 of Pilotage Ordinance	Register of licensed pilots	X	X
95	S.9(d) and (e) of Fire Services Ordinance	Publication of conviction of an offence under the Ordinance	✓	X
123	S.3 and s.8A of Buildings Ordinance	Authorised Person's Register, Structural Engineers' Register, Geotechnical Engineers' Register, Inspectors' Register, Register of General Building Contractors, Register of Specialist Contractors and Register of Minor Works Contractors	✓	X
128	S.2 of Land Registration Ordinance and Reg.21 of Cap. 128A	Registration of deeds, conveyances, and other instruments in writing, and judgments against landed property	X	X
138	S.5 of Pharmacy and Poisons Ordinance	Register of pharmacists	✓	X
155	S.20(1) of Banking Ordinance	Register of relevant individuals who perform for and on behalf of an institution in an activity regulated under the Ordinance	✓	X
155	S.71C of Banking Ordinance	Details of the decision made by Monetary Authority in refusing to give consent for a person to act as executive officer of a registered institution and the withdrawal/suspension of such consent	X	X

155	S.58A of Banking Ordinance	Details of the decision to remove/suspend registration (as a result of disciplinary action) against a relevant individual who performs for and on behalf of an institution in an activity regulated under the Ordinance	X	X
156	S.6 of Dentists Registration Ordinance	Register of dentists	X	X
159	S.5, s.29, s.39Q and s.40C of Legal Practitioners Ordinance	Roll of solicitors, roll of barristers, list of all persons who have acquired higher rights of audience and register of notaries public	X (except the list of persons with higher rights of audience)	X
161	S.6 & 15 of Medical Registration Ordinance	General Register and Specialist Register of medical practitioners	✓	X
162	S.5 of Midwives Registration Ordinance	Register of midwives	✓	X
164	S.5 and 6 of Nurses Registration Ordinance	Register of nurses	✓	X
171	S.13 of Fisheries Protection Ordinance	Register of fishing vessels	X	✓
174	S.22 and 23 of Births and Deaths Registration Ordinance	Registers of Births and Deaths	X	X
175	S.6A and 7 of Births Registration (Special Registers) Ordinance	Special Register of Births	X	X
181	S.6 and 7 of Marriage Ordinance	Notice of Intended Marriage	X	X
181	S.26 of Marriage Ordinance	Register of certificates, licences, registers and indexes regarding marriages	X	X
218	S.6 of Travel Agents Ordinance and Reg.3(a) of Cap. 218A	Register of travel agents	X	X
243	S.8 of Child Care Services Ordinance	Register of persons in respect of child care centres	X	X
279	S.8(1)(d) and (da) of Education Ordinance	Register of managers and incorporated management committees in relation to schools	✓	X

279	S.40BH of Education Ordinance	Register of interests (disclosure of pecuniary or other personal interests) by incorporated management committee in relation to schools	✓	X
290	S.18(1) and (3) of Adoption Ordinance	Adopted Children Register	X	X
296	Reserved Commodities Ordinance, Regulation 15 of Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296A) and Regulation 8 of Reserved Commodities (Control of Sales by Wholesale) Regulations (Cap. 296B)	Registers of stockholders and wholesalers for each reserved commodity	X	X
310	S. 6(1), s6(1A) and s.19(1) of Business Registration Ordinance	Register of business registration	✓	X
311	S.39 of Air Pollution Control Ordinance	Register of specified processes	X	X
311	S.51(1)(a) of Air Pollution Control Ordinance	Register of asbestos consultants	X	X
311	S.51(1)(b) of Air Pollution Control Ordinance	Register of asbestos contractors	X	X
311	S.51(1)(c) of Air Pollution Control Ordinance	Register of asbestos supervisors	X	X
344	S.12 of Building Management Ordinance	Register of Management Committees	✓	X
358	S.42 of Water Pollution Control Ordinance	Register of all discharges and deposits of matters to enter the waters of Hong Kong or into inland waters or a communal sewer or communal drain in the water control zone	X	X
359	S.10 & 11 of Supplementary Medical Professions Ordinance	Register of Supplementary Medical Professions (for medical laboratory technologists; occupational therapists, optometrists, radiographers, and physiotherapists)	✓	X
374	Road Traffic Ordinance and Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E)	Register of vehicles	X	X
408	S.8 and 12 of Architects Registration Ordinance	Register of architects	X	X
409	S. 7 and 11 of Engineers Registration Ordinance	Register of professional engineers	X	X

414	S.16(1) and (5) of Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance	Director of Marine shall issue to the owner of a ship a certificate on compulsory insurance against liability for oil pollution and make its copy available for public inspection	X	X
415	S.7 and 8 of Merchant Shipping (Registration) Ordinance as amended by Merchant Shipping (Registration) (Amendment) Ordinance 2001	Register of ship owners and their respective interests in ships, mortgagees and representative persons, etc.	X	X
417	S.7 and 11 of Surveyors Registration Ordinance	Register of professional surveyors	X	X
418	S. 7 and 11 of Planners Registration Ordinance	Register of professional planners	X	X
466	S.6 of Dumping at Sea Ordinance	Register of particulars of permits for dumping substances or articles within the waters of Hong Kong	X	X
473	S. 8 & 11 of Land Survey Ordinance	Register of authorized land surveyors	X	X
478	S.7 of Merchant Shipping (Seafarers) Ordinance	Register of seafarers	X	X
478	S.121A of Merchant Shipping (Seafarers) Ordinance	Marine Register of Births and Deaths	X	X
483	S.13(1) of Airport Authority Ordinance	Register of interest of members of the Airport Authority	X	X
485	S.20C of Mandatory Provident Fund Schemes Ordinance	Register of approved trustees	X	X
485	S.34Q of Mandatory Provident Fund Schemes Ordinance	Register of intermediaries	✓	X
490	S.8 of Plant Varieties Protection Ordinance	Register of Plant Variety Rights	X	X
501	S.9 of Enduring Power of Attorney Ordinance	Register of Instrument Creating an Enduring Power of Attorney	X	X
505	S. 7(1)(a) & 16 of Social Workers Registration Ordinance	Register of social workers	X	X
511	S.10(1)(b) & (d) of Estate Agents Ordinance	Register of interest declared by members of the Estate Agents Authority	X	X
511	S.13(1) & (5) of Estate Agents Ordinance	Register of licences granted by the Estate Agents Authority	X	X

514	s.51 of Patent Ordinance	Register of patents	✓	X
516	S. 7 and 11 of Landscape Architects Registration Ordinance	Register of landscape architects	X	X
522	S.25(b), s.64, s.68(1) and s.69 of Registered Designs Ordinance	Register of application and ownership of a design	✓	X
542	S.32(1)(a)(i)-(b)(i) and s.32(1A)(a)(i)-(b)(i) of Legislative Council Ordinance	Provisional and Final registers of geographical constituencies	✓	✓
542	S.32(1)(a)(ii)-(b)(ii) and s.32(1A)(a)(ii)-(b)(ii) of Legislative Council Ordinance	Provisional and Final registers of functional constituencies	✓	✓
542	S.32(4) and (5) of Legislative Council Ordinance; s.9 of Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A); and s.24(1) of Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B)	Omissions list of electors	X	X
547	S.31 of District Councils Ordinance	Register for the first ordinary election	X	X
549	S.51, 53 and 90 of Chinese Medicine Ordinance	Registers of Chinese Medicine Practitioners	✓	X
550	S.7 and 11 of Housing Managers Registration Ordinance	Register of professional housing managers	X	X
553	S.45(1) of Electronic Transactions Ordinance	On-line and public accessible repository	X	X
559	S.67(1) and s.68(1) of Trade Marks Ordinance	Register of trade marks	✓	X
560	S.17 of Entertainment Special Effects Ordinance	Register of pyrotechnic special effects materials	X	X
563	S.7(2) and 7(4) of Urban Renewal Authority Ordinance	Register of interests declared by members of the Board of the Urban Renewal Authority	✓	X
569	S.40(1)-(2) of Schedule 1 of Chief Executive Election Ordinance	Interim and Final Registers of Members of Election Committee	✓	✓

571	S.99 of Securities and Futures Ordinance	Register of Authorised Automated Trading Services	✓	X
571	S.136 of Securities and Futures Ordinance	Register of Licensed Persons and Registered Institutions	✓	X
571	S.336 of Securities and Futures Ordinance	Register of Interests in Shares and Short Positions	✓	X
571	S.352 of Securities and Futures Ordinance	Register of Directors' and Chief Executives' Interests and Short Positions	✓	X
576	S.17 of Village Representative Election Ordinance	Provisional and Final Registers of Electors for Existing Villages	✓	✓
576	S.17 of Village Representative Election Ordinance	Provisional and Final Registers of Electors for Indigenous Villages	✓	✓
576	S.17 of Village Representative Election Ordinance	Provisional and Final Registers of Electors for Composite Indigenous Villages	✓	✓
576	S.17 of Village Representative Election Ordinance	Omission List of electors	X	X
583	S.37(1)(a) and s.38 of Construction Workers Registration Ordinance	Register of Construction Workers	✓	X
585	S.30(1) of Land Titles Ordinance (The entire Ordinance has not yet made operative despite enacted in 2004)	Documents registered in the Land Registry	X	X
587	S.7 of Schedule 3 to Construction Industry Council Ordinance	Register of any disclosure of pecuniary interest of members of the Construction Industry Council	✓	X
601	S.38 of West Kowloon Cultural District Authority Ordinance	Register of West Kowloon Cultural District Authority of interest of a Board or committee member	✓	X
603	S.20 of Product Eco-responsibility Ordinance	Register of retailers	X	X
607	S.27 of Genetically Modified Organisms (Control of Release) Ordinance	Register of Genetically Modified Organisms	✓	X
612	S.15 of Food Safety Ordinance	Register of Food Importers and Food Distributors	✓	X
613	S.24 of Residential Care Homes (Persons with Disabilities) Ordinance	Register of Health Workers	X	X

615	S.27 of Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance	Register of Licensed Money Service Operators	✓	X
616	S.13 of Communications Authority Ordinance	Register of Interests of Members of the Communications Authority and the Members of its Committees	✓	X
618	S.105 and s.106 of Lifts and Escalators Ordinance	(i) Register of Lift Contractors; (ii) Register of Escalator Contractors; (iii) Register of Lift Engineers; (iv) Register of Escalator Engineers; (v) Register of Lift Workers; and (vi) Register of Escalator Workers	✓	X
619	Clause 29(3) of Part 8 of Schedule 5 of Competition Ordinance	Register of interest	X	X
622	S.27 and s.45 of Companies Ordinance	Register of Companies	✓	X
622	S.647 of Companies Ordinance	Register and Index of directors	✓	✓ (But the provisions are not yet operative)
1049	S.6B of St. Stephen's College Council Incorporation Ordinance (St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Ordinance 2006)	Register of St. Stephen's College Incorporation Council	X	X
1058	S.8 of Hong Kong Society for the Protection of Children Incorporation Ordinance	List of President, Members and Secretary of Executive Committee of the Hong Kong Society for the Protection of Children	X	X
1079	S.9 of The Council of Ling Liang World-Wide Evangelistic Mission Hong Kong Ling Liang Church Incorporation Ordinance	Public inspection of documents registered with the Registrar of Companies concerning the Council and its members, etc	✓	X

Total: 82 (75 ordinances and 7 regulations)

(the ticks for the same ordinances/regulations are counted as one)

(the ticks for the same ordinances/regulations are counted as one)

Annex II

The kinds of personal data publicly accessible in the registers

Name of the register	Personal data publicly accessible
Bankruptcy register	<p>The gazette notice about a bankrupt contains the following particulars :</p> <ul style="list-style-type: none"> • Name • Description of the debtor (e.g. partial HKID number) • Date of the bankruptcy order <p>Bankruptcy and approved individual voluntary arrangement (“IVA”) search report provided by the Official Receiver :</p> <ul style="list-style-type: none"> • Name of debtor and alias • Petition date, date of the orders of the relevant proceedings • For IVA cases, name of individual, HKID number, address, dates relating to the IVA procedure
Births register	<p>Particulars of the new born :</p> <ul style="list-style-type: none"> • When and where born • Name, if any • Sex • When registered • Name, if added after the registration of birth <p>Particulars of other individuals:</p> <ul style="list-style-type: none"> • Name of father • Maiden surname and name of mother • Signature, description and residence of the informant¹ to the Registrar of Births
Business register	<p>Business / branch registration certificate and extract of any information on the register :</p> <ul style="list-style-type: none"> • Name, address, nature of business and the commencement date of the business • Name, alias (if any), identification card number/passport number and residential address of the sole proprietor / partner(s) of the business

¹ In general, the “*informant*” refers to any person, usually the parents, who provide information for the new born.

Companies register	<p>Particulars of director /reserve director (who is a natural person) required to be delivered to the Registrar for registration :</p> <ul style="list-style-type: none"> • Present forename and surname, former forename or surname (if any) and aliases (if any) • Usual residential address • Identity card number or, if the director does not have an identity card, the number and issuing country of any passport held by the director • A statement that the director has attained the age of 18 years <p>The Index of Directors must contain the following particulars :</p> <ul style="list-style-type: none"> • Name and address of the director or reserve director • Latest particulars sent to the Registrar in respect of the director or reserve director • Name of each company of which the director or reserve director can be identified as a director or reserve director
Land registers	<p>The (i) Memorial, (ii) Instrument submitted for registration, (iii) Register card, (iv) historical and current information of the land register, and (v) Government Lease / Block Government Lease may contain the following personal data :</p> <ul style="list-style-type: none"> • Names and addresses of the parties • Identification document numbers • Description and interest in land • Date and consideration of the instrument • Signatures of the parties
Marriage register	<p>An entry in a marriage certificate may contain the following personal data :</p> <ul style="list-style-type: none"> • Date of marriage • Full names of bridegroom and bride • Age • Marital condition before (e.g. bachelor / spinster / divorced person) • Occupation • Residential address • Full names of father and mother • Name and title of the person celebrating the marriage • Names of witnesses
Register of notice of intended marriage	<p>Personal data of the bridegroom and bride :</p> <ul style="list-style-type: none"> • Surname and name • Marital condition (bachelor /widower /divorced person)

	<p>(spinster /widow /divorced person)</p> <ul style="list-style-type: none"> • Occupation • Date of birth • Residential address (street number and district) • Consent of third party, if any
SFC register of licensees	<p>Information of a licensee²:</p> <ul style="list-style-type: none"> • Name and business address • Conditions of licence or registration • Principal of each licensed representative • Name and business address of the executive officers of each licensed corporation or registered institution • Whether registration is suspended or not • Public disciplinary action which is kept in the register for a period of 5 years from the date the disciplinary action takes effect
Register of vehicles	<p>18 items of the particulars of a vehicle³ including the following information of a registered owner :</p> <ul style="list-style-type: none"> • Name • Full residential address • Identity document
Registers of electors	<p>The following particulars of a registered elector :</p> <ul style="list-style-type: none"> • Name • Principal residential address • Sector(s) that the elector is eligible to vote

² See section 136(2) of the Securities and Futures Ordinance, Cap 571, Laws of Hong Kong and section 6 of and Schedule 4 to the Securities and Futures (Licensing and Registration) (Information) Rules, Cap 571A, Laws of Hong Kong

³ Prescribed under Schedule 1 to the Road Traffic (Registration and Licensing of Vehicles) Regulations, Cap 374E, Laws of Hong Kong

Annex III
The aims or purposes served by the registers

Name of the register	Aims or purposes served by the register
Bankruptcy register	To facilitate members of the public to ascertain whether a bankruptcy petition has been presented or a bankruptcy order has been made under the Bankruptcy Ordinance, Cap.6 against a particular person and the period of bankruptcy thereof.
Births register	To record all births in Hong Kong in the register and such births registration records can be searched and of which certified copies can be obtained as required under s22 of Births and Deaths Registration Ordinance, Cap.174.
Business register	To enable members of the public (i) to obtain information/ documents specified in s19 and 19A of the Business Registration Ordinance, Cap.310, (ii) to ascertain whether a particular business is registered under the Business Registration Ordinance, and the particulars of the business so registered.
Companies register	To enable members of the public to ascertain whether he/she is dealing with: a company or its director in matters of or connected with any act of the company; a director in matters of or connected with the administration of the company, or of its property; a person against whom a disqualification order has been made by court under s45(1)(a) of the Companies Ordinance, Cap.622; and to ascertain the particulars of the company, its director under s45(1)(b).
Land registers	<ul style="list-style-type: none"> • To provide for the registration of deeds, conveyances, judgments and other instruments affecting real or immovable property, the keeping of Land Registry records, and for other matters relating to land registration as stated in the long title of Land Registration Ordinance, Cap. 128. • To prevent secret and fraudulent conveyances, and to provide means whereby the title to real and immovable property may be easily traced and ascertained as stated in the preamble of Land Registration Ordinance.

Marriage register	To record all marriages in Hong Kong in the Marriage register and such marriage registration record can be searched and of which certified copy can be obtained.
Register of notice of intended marriage	To administer the marriage registration related ordinance including the requirement to exhibit the Notice of Intended Marriage in places open to public before the marriage ceremony takes places to enable any person who is authorized by law to object to the proposed marriage may do so by notice in writing addressed to the Registrar of Marriages.
SFC register of licensees	To enable members of the public to ascertain whether he is dealing with a licensed person or a registered institution in matters of or connected with any regulated activity, and to ascertain the particulars of the license or registration of such person or institution under s136(4) of Securities and Futures Ordinance, Cap. 571.
Register of vehicles	To provide for the regulation of road traffic and the use of vehicles and roads (including private roads) and for other purposes connected therewith as stated in the long title of the Road Traffic Ordinance, Cap. 374.
Registers of electors	To facilitate the public, especially the electors themselves, to check their registration particulars and update the particulars if necessary to enhance accuracy and transparency of electoral registers for upholding the openness and fairness of elections.

Annex IV

Specific purposes of the registers prescribed by establishing legislation

Name of the register	Purposes of the register specified in the establishing legislation
Bankruptcy register	x
Births register	x
Business register	✓
Companies register	✓
Land registers	x
Marriage register	x
Register of notice of intended marriage	x
SFC register of licensees	✓
Register of vehicles	x
Registers of electors	✓

Annex V

Legislative timetable to specify the purposes of the registers

Name of the register	Legislative timetable, if any	Responses from operators of registers
Bankruptcy register	×	Will consider it in the next comprehensive review of the Bankruptcy Ordinance
Births register	×	Will be introduced when an opportunity arises
Land registers	×	If legislative provision in the Land Registration Ordinance is considered necessary, it will be introduced by way of consequential amendment in the Land Titles (Amendment) Bill
Marriage register	×	Will be introduced when an opportunity arises
Register of notice of intended marriage	×	Will be introduced when an opportunity arises
Register of vehicles	×	Need to further examine the public's concern

Annex VI

Responses to lack of specific legislative controls to (a) impose sanctions against the improper use of the personal data; (b) limit the class of persons entitled to make requests; and (c) require search requestors to declare in writing the intended use of the information

Name of the register	Specific legislative controls	Responses from operators of registers
Bankruptcy register	×	Will consider it in the next comprehensive review of the Bankruptcy Ordinance.
Births register	×	Will be introduced when an opportunity arises.
Business register	×	Premature at this stage. Not appropriate to change law before public consensus on the right to access data is reached.
Companies register	×	PDPO offers sufficient protection. No plan to introduce legislative provision imposing sanctions against improper use of the personal data. Needs to further examine stakeholders' views on limiting the class or persons making search and requiring requestors to make declaration on intended use ⁴ .
Land registers	×	PDPO offers sufficient protection. No plan to introduce legislative provisions.
Marriage register	×	Will be introduced when an opportunity arises.
Register of notice of intended marriage	×	Will be introduced when an opportunity arises.
SFC register of licensees	×	SFC considered that the notice given under " <i>Important Legal Information</i> " in its website was

⁴ Further information can be found in the paper on "New Arrangement for the Inspection of Personal Information on the Companies Register under the new Companies Ordinance" submitted by the Financial Services and the Treasury Bureau to the Panel on Financial Affairs of Legislative Council on 28 March 2013: LegCo paper CB(1)788/12-13 (01), available at http://www.cr.gov.hk/en/companies_ordinance/docs/papers-e.pdf

		sufficient to make the public aware of the need to confine subsequent uses of the data.
Register of vehicles	×	Need to further examine the public's concern over restricting access to the particulars maintained in the register of vehicles.
Registers of electors	✓	The use of the personal data for a purpose other than a purpose related to the specific election is an offence ⁵

⁵Section 22(3) of Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation, Cap 541A, Laws of Hong Kong; section 42(3) of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation, Cap 541B, Laws of Hong Kong; and section 32(3) of the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation, Cap 541K, Laws of Hong Kong.

Annex VII

PICS given to data subjects

Name of the register	PICS given	How given	The purpose of use of personal data in the register	Public inspection/ disclosure/ Mentioned
Bankruptcy register	✓	Attached to the prescribed forms (Form 28 A and C, and EA/B-11) for bankruptcy	<i>“for the Official Receiver and the trustee to discharge his duties under the Bankruptcy Ordinance and the Bankruptcy Rules ... personal data and other related information ... in this form may be provided to parties who have the right under this and other legislation to obtain the data.”</i>	x
Births register	✓	Incorporated in the guidance note at the back page of the Information required for Registration of Births (BDR93A)	<i>“process birth registration, search and issue of births records or related application ... the personal data you provide are also made available for search and issue of copies to the public ...”</i>	✓
Business register	✓	Printed at the back of the Application Form (IR BR55 and IR BR 58) for registration of business and at its home page	<i>“for tax purpose and may give some of the information to other parties authorized by law to receive it”</i>	x
Companies register	✓	Not included in the prescribed forms but is attached separately for hard copies of forms and CD-ROM	<i>“to make available for public inspection the Companies Register (containing personal data) to enable members of the public</i>	✓

		purchased	<i>to ascertain whether he is dealing with ... a director ... in matters of or connected with the administration of a company, or of its property ...</i>	
Land registers	✓	Advice given to solicitor to inform data subjects that the PICS is printed at the back of the memorial form	<i>“The purposes of the land records are to prevent secret and fraudulent conveyances, and to provide means whereby the titles to real and immovable property may be easily traced and ascertained Any information, including personal data contained in instruments and memorials lodged for registration will appear in the public land registers kept by the Land Registry. All documents are open for public search and inspection ...”</i>	✓
Marriage register	✓	Printed at the back of the Information Required for Registration of Marriage (MR 21B)	<i>“The personal data ... will be used ... to process the marriage registration, search and issue of marriage records or related application, ... to administer the marriage related ordinances ...; to administer/ enforce relevant provisions of the Immigration Ordinance ... and Immigration Service Ordinance...; to process other person’s application for immigration facilities in which you are named as a sponsor or referee; for statistics and research purposes ... and any other legitimate</i>	x

			<i>purposes as may be required, authorized or permitted by law”</i>	
Register notice of intended marriage	✓	Incorporated in the guidance note at the back of the Information Required for Registration of Marriage (MR 21B)	<i>“The personal data ... will be used ... to process the marriage registration, search and issue of marriage records or related application, ... including the requirement to exhibit the Notice of Intended Marriage in places open to the public before the marriage ceremony takes place to enable any person who is authorised by law to object to the proposed marriage may do so by notice in writing addressed to the Registrar of Marriages”</i>	✓
SFC register of licensees	✓	Inserted in the Application Form (Form 3) for Licence	<i>“The SFC is required to maintain public registers containing specified data relating to licensed or registered persons and to publish such specified data in the Gazette...any member of the public may inspect the public registers for the purposes of ascertaining whether he is dealing with a licensed or registered person in matters of or connected with any regulated activity, and the particulars of the licence or registration of such persons.”</i>	✓
Register vehicles	✓	Included in the Application Form (TD 22) for registration and	<i>“The personal data provided... will be used for... purposes of... maintenance of a</i>	✓

		licensing of vehicle	<i>register of vehicles for public access under regulation 4(2) of the Road Traffic (Registration and Licensing of Vehicles) Regulations ...</i>	
Registers of electors	✓	Included in the Application Form (REO-1) for Voter Registration	<i>“The personal data provided ... will be used ... for voter registration and election related purposes... if ... you are eligible to be registered as an elector, your name and residential address will be compiled in a register and made available for public inspection”.</i>	✓

Annex VIII

Disclosure of personal data to the public by the registers

Name of the register	Specify the data to be disclosed	Identification document	Residential address	Occupation
Bankruptcy register	✓	✓ ⁶	x	x
Births register	✓	x	✓ ⁷	✓ ⁸
Business register	✓	✓	✓	✓ ⁹
Companies register	✓	✓	✓	x
Land registers	✓	✓ ¹⁰	✓ ¹¹	x
Marriage register	✓	x	✓ ¹²	✓ ¹³
Register of notice of intended marriage	✓	x	x ¹⁴	✓ ¹⁵
SFC register of licensees	✓	x	x	✓ ¹⁶
Register of vehicles	✓	✓	✓	x

⁶ In bankruptcy and approved individual voluntary arrangement search reports, name of the bankrupt will be disclosed and for IVA search report, full HKID as well as address will also be disclosed. When the bankruptcy order is gazetted, partial HKID will be published.

⁷ Residential address will be shown in the certified copy of an entry in the Births Register.

⁸ The occupation of the new born's father will be shown in the certified copy of an entry in the Births Register for the birth before 1992.

⁹ Where a business registration is made under an individual's name, it may reveal generally the nature of business that the individual is engaged in.

¹⁰ Full HKID will be shown on copies of documents involving change of ownership of property.

¹¹ Residential addresses may be provided in the instrument filed by the parties for registration purpose.

¹² Since November 2002, only street name and district will be shown but residential addresses will still be shown in certified copy of the marriage certificate for marriages celebrated before 2002.

¹³ Occupation will be shown in certified copy of the marriage certificate if the parties provide such information.

¹⁴ The Notice of Intended Marriage no longer shows the residential address but street name and district.

¹⁵ Occupation will be revealed if the parties provide such information.

¹⁶ The types of licence(s) will be revealed.

Annex IX

How search requestor is informed of the purposes of the registers

Name of the register	Is public informed	How	The purposes of the register & limitation of use
Bankruptcy register	✓	In search report but not in gazette notice	<i>“for the purpose of the bankruptcy case and the related individual voluntary arrangement ... searchers of the register should confine their subsequent usage of the data in the register to such purposes”.</i>
Births register	✓	<ul style="list-style-type: none"> • In guidance note for application for search (BDR 40 and 87). • In a notice to be signed by searcher 	<p><i>“to process the births and deaths registration, search and issue of births and deaths records, or related applications ”</i></p> <p><i>“the personal data were not collected for the purpose of public disclosure ... [the requestor’s] intended use of the personal data obtained under the Births and Deaths Registration Ordinance, Cap. 174 should comply with the PDPO.”</i></p>
Business register	✓	<ul style="list-style-type: none"> • In search application form (IRBR37) • Incorporated as part of the “Important Notice” for online search 	<i>“The personal information on the Business Register is collected for taxation purposes and for the public to know about the person carrying on the particular business. Applicants should make sure that the personal information obtained from the Business Register is not used for any other purposes.”</i>
Companies register	✓	<ul style="list-style-type: none"> • Incorporated in the terms and conditions to be accepted by searchers before conducting a search. • Included in the 	<i>“Any person who uses personal data for any purpose other than the purposes stated in the PICS [see Annex VII] or in contravention of the requirements under the PDPO is liable to pay compensation and may be subject to action under the relevant Ordinance.”</i>

		Privacy Policy Statement on the homepage.	
Land registers	✓	Inserted in search records.	<i>“The land records are kept and made available to members of the public to prevent secret and fraudulent conveyances, and to provide means whereby the titles to real and immovable property may be easily traced and ascertained. The information contained in the land records shall not be used for purposes that are not related to the purposes [see Annex VII] of the land records. The use of the information provided is subject to the provisions in the PDPO.”</i>
Marriage register	✓	<ul style="list-style-type: none"> • Incorporated in Guidance Notes in search application form (MR 10). • Incorporated in a Notice to be signed by searcher 	<p><i>“The personal data were collected to enable the Registrar to maintain a record of all marriages celebrated in Hong Kong. The personal data were not collected for the purpose of public disclosure.”</i></p> <p><i>“the personal data were not collected for the purpose of public disclosure ... [the requestor’s] intended use of the personal data obtained under the Marriage Reform Ordinance, Cap 178 / Marriage Ordinance, Cap 181 should comply with the PDPO.”</i></p>
Register of notice of intended marriage	×	×	Not provided
SFC register of licensees	✓	Incorporated as part of <i>“Important Legal Information about the Public Register of Licensed Persons and Registered Institutions”</i> found on SFC’s homepage.	<i>“...the purposes of this Register are to enable any member of the public to ascertain whether he is dealing with a licensed person or a registered institution in matters of or connected with any regulated activity and to ascertain the particulars of the licence or registration of such persons or institutions (as the case may be). As required by the PDPO, you may only use the information provided in this Register for the specified purposes as set out above.”</i>

		Search can be performed on the same page.	
Register of vehicles	✓	<ul style="list-style-type: none"> • Inserted in application form for search of particulars of motor vehicle (TD318). • Online searcher is required to confirm that he has read the terms and conditions which state that the personal data is to be used for activities relating to traffic and transport matters. 	<ul style="list-style-type: none"> • “... the personal data provided by a certificate of particulars of motor vehicle should only be used for activities relating to traffic and transport matters.” • The search requestor is asked to declare the purposes, namely, legal proceedings, sale and purchase of vehicle or other purposes.
Registers of electors	✓	<ul style="list-style-type: none"> • Inserted in application form for inspection (REO-PRIR(2014)) • Inserted in application form for an extract of the Provisional Register of Electors/Voters or Permission to Copy (REO-PREXT (2014)) 	<p><i>“I have read and understood the above regulation(s) and note that the information obtained by me through inspection of the provisional registers or the omission list must not be used for any purposes unrelated to an election and certainly not for any commercial use.”</i></p> <p><i>“I undertake to use the information in the ... Register solely for the above election-related purpose and not to use it otherwise I fully understand that it is an offence ... for any person to reproduce or permit another person to reproduce in any form, use or permit another person to use, or impart to any other person, the information in the Register for any purposes other than a purpose related to the elections. Any person who commits the offence is liable to a fine at level 2 and to imprisonment for 6 months.”</i></p>

Annex X

Online search services/ electronic copy provided, bulk provision of personal data and measures adopted to prohibit manipulation

Name of the register	Online service or electronic copy provided to third party	Search keys limitation	Bulk supply of data	Terms and conditions and technical safeguards to prohibit manipulation of the data
Bankruptcy register	✓	Search by name and ID number	× Search for up to 5 bankruptcy reports in one search transaction	× Report given in PDF format or in hard copy.
Births register	×	N/A	N/A	N/A
Business register	✓	Search by full name of business or business registration number	✓ Up to 90 searches can be conducted online each transaction	✓ A searcher is required to indicate that he has read an “ <i>Important Notes</i> ” which requires personal information obtained shall not be used for any other use. Content copying or direct data extraction from image of search records provided is not allowed. CAPTCHA ¹⁷ control mechanism is incorporated for online search service.
Companies register	✓	Company-based search and director-based search	× One search can be conducted online each transaction	✓ A searcher is required to accept the terms and conditions which requires that searchers must not sell the data and shall comply with the PDPO

¹⁷ CAPTCHA stands for Completely Automated Public Turing Test to tell Computers and Humans Apart

Land registers	✓	Search by property address, lot number or property reference number.	✓	<p>✓</p> <p>A searcher (i) must not lend, re-sell, copy or transmit the search results to any other person; (ii) must not use for unlawful activities or objectionable activities as determined by the Land Registrar; and (iii) must comply with the PDPO.</p> <p>The searched information or imaged instrument/memorial is provided in Hypertext Markup Language format or Tagged Image File Format, both of which do not facilitate creation of new search keys or re-structuring of the searched information.</p>
Marriage register	×	N/A	N/A	N/A
Register of notice of intended marriage	×	N/A	×	N/A
	On-site inspection at Marriage Registries through touch screen LCD monitors		Can only view Part 1 of Form 1 of all notices of intended marriage lodged for the past 3 months from touch screen monitors but no downloading or printing is allowed	
SFC register of licensees	✓	Search by name or licensed number or by the regulated activity. Requestors inputting an alphabet will generate a full list of licensees with the alphabet as	×	×
			The search result is displayed in page by page format. 20 of licensees per page.	Searchers are not required to indicate acceptance of any terms and conditions

		the prefix of their names.		
Register of vehicles	✓ Search result is sent to requestor using e-certificate	Search by vehicle registration mark	✗ One search can be conducted online each transaction	✓ A searcher is required to tick a check box to indicate he has read, understood and agreed with the terms and conditions which requires <i>“the personal data provided by a certificate of particulars of motor vehicle should only be used for activities relating to traffic and transport matters.”</i>
Registers of electors	✓ No online search but searcher may request to be supplied with the whole or part of the registers in electronic format	✗	✓ The operator may send the requested data in electronic format upon request	✓ The electronic files are password-protected. A searcher is asked to sign and give an undertaking not to use the information obtained for any purpose unrelated to an election nor for commercial use.

Annex XI

Reasons for bulk provision of personal data by operators of the registers

Name of the register	Reasons for bulk supply of data
Business register	Banks, large estate agents and solicitors firms make frequent and regular requests for particulars of the business registered and the particulars so registered in their ordinary course of business
Land registers	Land registry does not limit the number of land records that can be searched for the reason of preventing secret and fraudulent conveyances, and to provide means whereby the title to real and immovable property may be easily traced and ascertained.
Registers of electors	The provision of the whole or extracts of the registers of electors to a candidate in an election is necessary for the purpose of enabling the candidate to send the election platforms to the voters.

--- End of Report ---

*Office of the Privacy Commissioner for Personal Data
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