

Table 2: Criminal Offences

Section number	Description of Offence	Maximum Financial Penalty	Maximum Imprisonment Sentence
14(11)	A data user knowingly or recklessly supplies false or misleading information in a data user return or change notice	HK\$10,000	6 months
14A(6)	A person fails to comply with a notice served by the Privacy Commissioner for the purpose of (i) verifying the accuracy of information in a data user return or change notice or (ii) requiring the correction of any inaccurate information therein	HK\$10,000	Not applicable
14A(7)	A person knowingly or recklessly provides false or misleading information in purported compliance with a notice served by the Privacy Commissioner for the purpose of verifying the accuracy of information in a data user return or change notice	HK\$10,000	6 months
14A(8)	A data user knowingly or recklessly supplies false or misleading information in purported compliance with a notice served by the Privacy Commissioner requiring the correction of any inaccurate information in a data user return or change notice	HK\$10,000	6 months
15(4A)	A data user knowingly or recklessly supplies false or misleading information in a notice submitted to the Privacy Commissioner for the purpose of maintaining the register of data users	HK\$10,000	6 months
15(7)	A person supplies false or misleading information in a notice submitted to the Privacy Commissioner for the purpose of deleting certain particulars from the register of data users	HK\$10,000	6 months

18(5)	A person supplies false or misleading information in a data access request	HK\$10,000	6 months
22(4)	A person supplies false or misleading information in a data correction request	HK\$10,000	6 months
26	A data user fails to take all practicable steps to erase personal data held by the data user where the data is no longer required for the purpose for which the data was used	HK10,000	Not applicable
31(4)	A person supplies false or misleading information in a matching procedure request	HK\$10,000	6 months
32(5)	A requester contravenes any conditions specified by the Privacy Commissioner in a notice giving consent to the carrying out of matching procedure	HK\$10,000	Not applicable
35C(5)	A data user uses personal data in direct marketing without taking specified actions to give notice to the data subject	HK\$500,000	3 years
35E(4)	A data user uses personal data in direct marketing without data subject's consent	HK\$500,000	3 years
35F(3)	A data user, when using personal data in direct marketing for the first time, fails to inform the data subject that the data user must, without charge, cease to so use the data if the data subject so requires	HK\$500,000	3 years
35G(3) & (4)	Failure to comply with the request from the data subject to cease to use her personal data in direct marketing (opt-out request)	HK\$500,000	3 years
35J(5)(a)	A data user provides personal data for gain to another person for use by that person in direct marketing, without taking specified actions to give notice to the data subject	HK\$1,000,000	5 years

35J(5)(b)	A data user provides personal data otherwise than for gain to another person for use by that person in direct marketing, without taking specified actions to give notice to the data subject	HK\$500,000	3 years
35K(4)(a)	A data user provides personal data for gain to another person for use by that person in direct marketing without data subject's consent	HK\$1,000,000	5 years
35K(4)(b)	A data user provides personal data otherwise than for gain to another person for use by that person in direct marketing without data subject's consent	HK\$500,000	3 years
35L(6)(a)	A data user fails to comply with a data subject's request to (i) cease to provide his personal data to another person for use by that person in direct marketing and (ii) notify that person to cease to so use the personal data (if the contravention involves a provision of personal data for gain)	HK\$1,000,000	5 years
35L(6)(b)	A data user fails to comply with a data subject's request to (i) cease to provide his personal data to another person for use by that person in direct marketing and (ii) notify that person to cease to so use the personal data (if the contravention does not involve a provision of personal data for gain)	HK\$500,000	3 years
35L(7)	A person fails to comply with a written notification from a data user to cease to use personal data in direct marketing	HK\$500,000	3 years

50A(1)	A data user contravenes an enforcement notice	<p>On a first conviction – HK\$50,000 and daily penalty of HK\$1,000</p> <p>On a second or subsequent conviction – HK\$100,000 and daily penalty of HK\$2,000</p>	<p>2 years</p> <p>2 years</p>
50A(3)	A data user, having complied with an enforcement notice, intentionally does the same act or makes the same omission as specified in the enforcement notice	HK\$50,000 and daily penalty of HK\$1,000	2 years
50B(1)	A person (i) without lawful excuse, obstructs, hinders or resists the Privacy Commissioner in performing his functions or exercising his powers; (ii) without lawful excuse, fails to comply with any lawful requirements of the Privacy Commissioner; (iii) makes to the Privacy Commissioner a statement which the person knows to be false or does not believe to be true or otherwise knowingly misleads the Privacy Commissioner	HK\$10,000	6 months
63B(5)	A person who receives personal data for the purpose of a due diligence exercise to be conducted in connection with a proposed business transaction, uses the personal data for other purposes; or fails to return the data to the data user or destroy the data after completion of the due diligence exercise	HK\$50,000	2 years

64(1)	A person discloses personal data of a data subject obtained without consent from data user with intent to gain in money or property or to cause loss in money or property to the data subject.	HK\$1,000,000	5 years
64(3A)	A person discloses any personal data of a data subject without the relevant consent of the data subject; and has an intent to or is being reckless as to whether any specified harm* would be, or would likely be, caused to the data subject or any family member of the data subject.	HK\$100,000	2 years
64(3C)	A person discloses any personal data of a data subject without the relevant consent of the data subject; has an intent to or is being reckless as to whether any specified harm would be, or would likely be, caused to the data subject or any family member of the data subject; and the disclosure causes any specified harm* to the data subject or any family member of the data subject.	HK\$1,000,000	5 years

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\* Pursuant to section 64(6) of PDPO, “specified harm” consists of four limbs, including harassment, molestation, pestering, threat or intimidation to the data subject or any family member of the data subjects (known as “that person”); bodily harm or psychological harm to that person; harm causing that person reasonably to be concerned for that person’s safety or well-being; or damage to the property of that person.

66E(1)	A person fails to comply with a requirement of a written notice issued pursuant to section 66D(2) of the Ordinance.	On summary conviction: HK\$50,000  On conviction on indictment: HK\$200,000	On summary conviction: 6 months  On conviction on indictment: 1 year
66E(5)	A person, with an intent to defraud, fails to comply with a written notice; or in purported compliance with a written notice, provide false and misleading material, answer, direction, explanations, particular or statement.	On summary conviction: HK\$100,000  On conviction on indictment: HK\$1,000,000	On summary conviction: 6 months  On conviction on indictment: 2 years
66I(1)	A person, without lawful excuse, obstructs, hinders or resists any officers or a person assisting the officers in exercising the powers under the section 66G or 66H of the Ordinance.	HK\$10,000	6 months

66O(1)	Contravention of cessation notice.	<p>On a first conviction: HK\$50,000</p> <p>In the case of a continuing offence, to a further fine of HK\$1,000 for every day during which the offence continues.</p> <p>On each subsequent conviction: HK\$100,000</p> <p>In the case of a continuing offence, to a further fine of HK\$2,000 for every day during which the offence continues.</p>	<p>2 years</p> <p>2 years</p>
64A	Miscellaneous offence – a data user without reasonable excuse contravenes any requirement under the ordinance except (i) a contravention of a data protection principle or (ii) an offence specified in another section	HK\$10,000	Not applicable