

DOXXING IS A CRIMINAL OFFENCE DON'T BREAK THE LAW



Personal Data (Privacy) (Amendment) Ordinance 2021 (Amendment) aims to combat doxxing acts that are intrusive to personal data privacy:



Criminalising doxxing acts



Empowering the Privacy
Commissioner for Personal Data
(Privacy Commissioner)

to carry out **Criminal
Investigation and
Institute Prosecution**



Conferring statutory powers
on the Privacy Commissioner to
direct the **Removal of
a Doxxing Message**



**Re-posting of doxxing
message without data
subject's consent**
is also unlawful

CRIMINALISING DOXXING ACTS

A two-tier structure of the doxxing offence



New provision	Sections 64(3A) and 64(3B)	Sections 64(3C) and 64(3D)
Tier of offence	First Tier	Second Tier
Prosecution means	Summary offence	Indictable offence
Threshold for conviction	<ul style="list-style-type: none">• Disclosing personal data without the data subject's consent; and• With intent to cause specified harm or being reckless as to whether specified harm would be caused	<ul style="list-style-type: none">• Disclosing personal data without the data subject's consent;• With intent to cause specified harm or being reckless as to whether specified harm would be caused; and• Specified harm has been caused to the data subject or his or her family member
Maximum Penalty	Fine of \$100,000 Imprisonment for 2 years	Fine of \$1,000,000 Imprisonment for 5 years

WHAT IS SPECIFIED HARM?



- Harassment, molestation, pestering, threat or intimidation to the person;



- Bodily harm or psychological harm to the person;



- Harm causing the person reasonably to be concerned for the person's safety or well-being; or



- Damage to the property of the person

EMPOWERING THE PRIVACY COMMISSIONER TO CARRY OUT CRIMINAL INVESTIGATION AND INSTITUTE PROSECUTION

- The Privacy Commissioner is empowered to carry out criminal investigation on doxxing acts and institute prosecution in the Magistrates' Courts for offences triable summarily
- A person who, without reasonable excuse, does not comply with the Privacy Commissioner's request for materials or assistance in a specified investigation is liable to a maximum fine of **\$200,000** and to imprisonment for **1 year**
- A person who, with intent to defraud, provides any material or statement that is false or misleading in a material particular is liable to a maximum fine of \$1,000,000 and to imprisonment for 2 years

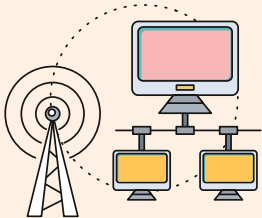


CONFERRING STATUTORY POWERS ON THE PRIVACY COMMISSIONER TO REMOVE A DOXXING MESSAGE

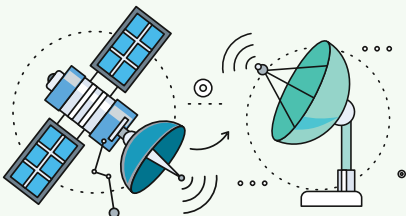
The Privacy Commissioner can serve a cessation notice where there is a disclosure, with the requisite intent or recklessness, of personal data without the data subject's consent. The cessation notice will be sent to a person who is able to take a cessation action to remove the doxxing message, including:



An individual in Hong Kong



An internet service provider incorporated in Hong Kong or having a place of business in Hong Kong



A service provider outside Hong Kong (for an electronic message)

HOW WOULD THE AMENDMENT STRENGTHEN THE PROTECTION OF YOUR PERSONAL DATA PRIVACY?

	Before the Amendment	After the Amendment
Filling in the gaps	Only regulate the disclosure of personal data "without the data user's consent"	Regulate the disclosure of personal data "without the data subject's consent"
Subject to be protected	Data subject	Data subject and his or her family members
Scope of protection	Causing psychological harm to the data subject	<ul style="list-style-type: none"> • With intent or being reckless as to whether specified harm would be caused • Specified harm has been caused to the data subject or his or her family members
Requesting removal of doxxing message	Can only advise	Power to issue a cessation notice to request the removal of the doxxing message
Criminal investigation and prosecution	×	√ Strengthen enforcement!
Balancing freedom of speech	√	√ Remain unchanged!

TO ACHIEVE A BALANCE BETWEEN PROTECTION OF PRIVACY AND FREEDOM OF SPEECH



The Amendment follows two main principles:

- to effectively eradicate doxxing so as to protect the personal data privacy of the public
- to balance the freedom of speech as enshrined in the Basic Law
 - The removal regime is subject to checks and balances, with an appeal mechanism built in
 - The defence for lawful news activities in the public interest remains intact

Relevant Information:

PCPD's Enquiry/Complaint Hotline about Doxxing: 3423 6666
Personal Data (Privacy) (Amendment) Ordinance 2021
Implementation Guideline



Download the
Guideline



PCPD website
pcpd.org.hk



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