

Personal Data (Privacy) Ordinance

Data User Return Scheme

Consultation Document

Part I – Background

Legislation

1.1 The Personal Data (Privacy) Ordinance (the “**Ordinance**”) came into operation in 1996 to protect the personal data privacy rights of individuals. It covers the collection, holding, processing and use of personal data.

1.2 Part IV of the Ordinance: Data User Returns and Register of Data Users¹ provides for the basis of the Data User Return Scheme (“**DURS**”) (資料使用者申報計劃). The Privacy Commissioner for Personal Data (the “**Commissioner**”) may specify a class of data users (“**Data Users**”) and require them to submit to him data user returns (“**Returns**”) (資料使用者申報表) containing “prescribed information” which includes, among other things, the kinds of personal data they control and the purposes for which the personal data are collected, held, processed or used. The Commissioner shall use the Returns to maintain a register of data users (the “**Register**”) (資料使用者登記冊) containing particulars of the prescribed information supplied by Data Users. The Register shall be made available for inspection by the public. The Ordinance also provides that Data Users shall submit their Returns accompanied by a fee to be prescribed by the Commissioner.

Factors Leading to the Implementation of DURS

1.3 Since the Ordinance came into operation, awareness of personal data privacy rights has been growing in the community. These rights are featured almost daily in the media and manifested in the form of increasing number of

¹ Relevant provisions of the Ordinance are attached in **Annex A**.

public enquiries and complaints received by the Office of the Privacy Commissioner for Personal Data (“PCPD”). In 2010, PCPD received 18,000 enquiries and 1,179 complaints from the public compared to the corresponding figures of 9,356 and 227 in 1997. This trend, coupled with a series of major data breaches in recent years gaining widespread media attention, underlines the need for organizational data users to have responsible data policies and practices, and to be open and transparent about them.

1.4 Reference is made to the privacy or data protection laws in other jurisdictions, particularly in the European Union (“EU”), which have included a notification and public register scheme similar to DURS to promote transparency and openness. Organizations collecting, holding, processing or using personal data are required to register with a supervisory authority, declaring the kind(s) and purpose(s) of use of the personal data they control as well as setting out how individuals can go about exercising their rights such as access to and correction of their data.

1.5 PCPD conducted a survey by way of questionnaires to 23 EU countries on the operation of their notification scheme. It was found that 91% and 87% of the data users and data subjects respectively in these countries considered the notification scheme useful. By analogy, Hong Kong can benefit from an appropriately managed DURS. Given the present high public awareness of privacy rights and corporate sensitivity about personal data protection, PCPD is of the view that it is now an opportune time to introduce DURS.

Consultation

1.6 This consultation document sets out the proposed operational and implementation framework of DURS. In drawing up the proposals, due regard has been paid to maintain a high level of protection for the privacy of personal data and to avoid the creation of unnecessary barriers to business operations. The purpose of the consultation is to engage bodies representative of the proposed class of data users and to solicit their views.

Part II – Benefits of DURS

Benefits of DURS to Data Users

2.1 As it is a statutory requirement to submit Returns and provisions of false or misleading information in a Return will commit an offence, Data Users are expected to ensure that Returns are completed correctly. In the process, corporate awareness on personal data privacy protection will be raised.

2.2 It is worth noting the EU experience that many corporations had taken personal data protection seriously after the introduction of the notification scheme and personal data protection officers were appointed to ensure internal compliance and education.

2.3 As Data Users provide and disclose full details in the Returns, greater creditability, accountability and transparency on the part of Data Users could be demonstrated to the public.

2.4 An annual submission of the Returns ensures that Data Users are continuously reminded of their obligations and therefore enables them to review and maintain high standards in personal data privacy protection throughout the organization.

2.5 Data Users may optionally provide more information than that prescribed by the Commissioner regarding the measures they have taken to protect the personal data held by them. By showing their commitment to the protection of customer data in this manner, their market competitiveness may be enhanced.

Benefits of the Register to Data Subjects

2.6 Data subjects will have a single point of access to information about the handling of their personal data by Data Users, such as the kinds of personal data collected, the purposes of collection, the transferees and

destinations of transfer of personal data.

2.7 Data subjects will also have an opportunity to better understand how the Data User protects its customers' personal data before deciding whether or not to hand over their personal data.

2.8 Data subjects will be able to compare the personal data protection policies and practices of different Data Users, which facilitate them in making a choice in the purchase of products and services.

Benefits of DURS to PCPD

2.9 DURS can assist PCPD to exercise its regulatory functions by having a central database of the mandatory and optional information on personal data handling by Data Users. It enables PCPD to monitor the policies and practices of Data Users and respond more quickly to any issues or public complaints related to Data Users.

Part III – Operational and Implementation Framework of DURS

Proposed Classes of Data Users

3.1 It is proposed that DURS will be rolled out in phases. Initially, it will cover (1) the public sector, (2) three large and regulated industries, namely, banking, telecommunications and insurance, and (3) organizations with a large database of members (e.g. customer loyalty schemes). These sectors are proposed to be included in the initial phase due to the following reasons:

- (i) the large amount of personal data collected and held by organizations in these sectors;
- (ii) the sensitivity of the personal data concerned in some of these sectors;
- (iii) the frequent and diverse use of the personal data concerned and held;
- (iv) the common practice of many commercial organizations in these sectors to transfer personal data to third parties for outsourced processing and marketing purposes;
- (v) the highly adverse impact on data subjects in the event of misuse/leakage of the personal data concerned; and
- (vi) the relatively high number of complaint cases involving collection and use of personal data in these sectors.

The Public Sector

3.2 (A) In the absence of a universal definition of ‘public sector’, it is proposed to adopt the list of public sector organizations covered by Schedule 1 of the Ombudsman Ordinance (Cap. 397). A list of such public sector organizations is listed at **Annex B**.

The Banking Industry

(B) For the banking sector, it is proposed to include all authorized institutions regulated by the Hong Kong Monetary Authority under the Banking Ordinance, including licensed banks, restricted licence banks and deposit-taking companies. As at 31 May 2011, there were 149 licensed banks, 20 restricted licence banks and 26 deposit-taking companies².

The Telecommunications Industry

(C) For the telecommunications sector, it is proposed to include telecommunications service providers that hold unified carrier licences and provide fixed internal services and/or mobile services regulated by the Office of the Telecommunications Authority (“OFTA”). These service providers often need to maintain a large customer database and, according to OFTA, are believed to have a collective market share of 95% to 99% in the fixed telecom subscriber market, the mobile subscriber market, the Internet service provider market and the paid-TV market.

The Insurance Industry

(D) The insurance sector regulated by the Insurance Authority can be divided into insurers and insurance intermediaries (i.e. insurance agents and insurance brokers). Insurance intermediaries generally have relatively smaller customer bases in comparison with insurers. It is therefore proposed to include only insurers, which maintain the aggregated lists of personal data supplied by intermediaries, in the first phase of DURS. As at 31 March 2011, there were 167 insurers³ authorized by the Insurance Authority to carry out insurance business in or from Hong Kong.

Organizations with a Large Database

(E) PCPD is considering a definition for this class of data users so that whether a data user belongs to the class can be decided with certainty.

² www.hkma.gov.hk

³ www.oci.gov.hk

Information Provided in the Returns

Prescribed Information

3.3 The prescribed information to be submitted by Data Users is specified in Schedule 3 of the Ordinance. It comprises:

- (i) the name and address of the data user;
- (ii) a description of the kind of personal data in respect of which the data user is a data user;
- (iii) a description of the purpose or purposes for which the personal data referred to in item (ii) are or are to be collected, held, processed or used by the data user;
- (iv) a description of any classes of persons to whom the data user discloses, intends to disclose or may wish to disclose the personal data referred to in item (ii);
- (v) the names or a description of any places outside Hong Kong to which the data user transfers, intends to transfer or may wish to transfer, the personal data referred to in item (ii); and
- (vi) the name and address of the individual to whom data access requests may be made to the data user.

Optional Information

3.4 To further promote transparency, openness and credibility on the part of the Data Users, PCPD intends to request Data Users to submit, on a voluntary basis, more information in the Return than the Ordinance prescribed. This includes:

- (i) the number of data subjects for whom personal data are held;

- (ii) the URL address of the Data User's website;
- (iii) the Personal Information Collection Statement;
- (iv) the Privacy Policy Statement;
- (v) how and when the Data User communicates to a data subject about the purpose of collection of his personal data, the processing and intended use and the retention policy;
- (vi) transfer of personal data outside Hong Kong and the legally binding contractual arrangement with overseas partners if any; and
- (vii) personal data breach / leakage incident(s).

3.5 The inclusion of the optional information in the Register enables PCPD and the public to have a more comprehensive understanding of the personal data protection policies and practices of Data Users.

3.6 Data Users who voluntarily provide optional information may request that information to be stored in the DURS database accessible by PCPD only but not to be made available to the general public.

Public Inspection of the Register

3.7 The Commissioner will provide an electronic Register accessible via the Internet and in PCPD for public inspection. Upon a person's application and on payment of a prescribed fee, the Commissioner will provide that person with a copy in writing of the particulars contained in the Register at a fee.

Submission Mechanism of the Returns

3.8 Section 14(5) requires the Commissioner to publish a notice every six months in the Gazette (“**Notice**”), and at least in one Chinese language and one English language newspaper specifying the places at which the Return forms may be obtained for periodic submission by Data Users.

3.9 In this regard, PCPD proposes to develop a dedicated website for DURS and make available an electronic Return form for submission by Data Users. A Data User will have to visit the DURS website to apply for an online account to initiate the DURS submission process. The Data User first has to provide the required organizational information (e.g. name, address, trade name, authorized representatives), contact details and supporting documents to set up the user account. The Data User will then access the password protected user account to submit the Return electronically. Paper submission of Returns will also be accepted.

3.10 To facilitate submission of prescribed information in the Returns, templates of prescribed information are developed to include suggested items under the prescribed information.

3.11 Master templates for prescribed information will be provided for:

- Classes of data users
- Description of the kind of personal data:
 - Types of personal data
 - Types of data subject concerned
- Purposes
- Types of transferees
- Places outside Hong Kong to which personal data be transferred

Samples of the master templates could be found at **Annex C**.

3.12 New items of information could be added to the master template to suit the needs of a specific data user or class of data users. To further enhance the user friendliness of the submission mechanism of Returns, it is proposed that class-specific templates be developed from the master templates after consultation with bodies representative of proposed classes of data users.

3.13 After a Data User makes the selection on the class of data users and templates for prescribed information online, a template for the class to which

the Data User belongs will be generated automatically. The Data User will have the option to add, delete and/or modify the suggested items under the prescribed information.

3.14 After completing the Return form, the Data User is required to submit the Return form electronically or in paper form, and make payment of the prescribed fee to comply with the requirements under the Ordinance.

3.15 Where reasonably practicable, PCPD will check the completeness and consistency of the information submitted before posting the same to the Register, which will support both listing and searching of Data Users for public inspection. It is the responsibility of the Data Users to ensure the accuracy of the information submitted in the Return.

3.16 A sample of the Return form and an example of the particulars of a data user in the Register of Data Users are attached in **Annex D** and **Annex E** for reference.

Frequency of and Changes Subsequent to Submission

3.17 Data Users are required to provide Returns on an annual basis. If any prescribed information contained in a Return changes, the Data User shall notify the Commissioner such changes not later than 30 days after the change. It is proposed that subsequent changes to the initial Returns, updates and future annual Returns will be submitted electronically via the password protected user account. Paper submissions will also be accepted.

Fee Level and Structure

3.18 The Ordinance allows the Commissioner to prescribe a fee for the Returns. The amount of fees prescribed shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to providing DURS.

3.19 Since the organizations in the proposed classes of Data Users are all

large organizations with substantial databases holding personal information, it is proposed that an annual fee at a flat rate be charged for all Data Users in the first phase. The principle of cost recovery will be adopted. Based on the estimated capital and recurrent cost for operating DURS, the required fee for each Return is assessed at HK\$5,700 per annum⁴. No charge will be imposed for any changes or updates between the annual submissions.

3.20 To encourage timely filing of the Returns, it is proposed to impose higher charges for late Returns as follows:-

Fees for Returns (in HK\$)		
<i>Return submitted on or before the due date</i>	<i>Return submitted after the due date but within six months after the due date</i>	<i>Return submitted later than six months after the due date</i>
\$5,700 per annum	\$6,270	\$6,840

This is permitted under section 69 of the Ordinance. It will deter Data Users from late submission and cover the additional administrative costs that have to be incurred by PCPD for dealing with late Returns.

3.21 The DURS fees proposed should be affordable to the large organizations involved. The fee level may be reviewed in future when new classes of data users are added.

3.22 Data Users can make payment by cheques, direct transfer to bank account and by cash.

3.23 The amount of prescribed fee for the provision of a copy of the particulars contained in the Register is proposed to be in line with PCPD's standard fee schedule for photocopying services provided for members of the public, which is based on cost recovery. The standard charges are \$1.50 for A4 size and \$3 for A3 size per photocopy.

⁴ In comparison, the United Kingdom Information Commissioner's Office charges £500 and the Office of the Data Protection Commissioner in Ireland charges €480 for their annual notification.

Non-compliance with DURS

3.24 Section 64(1) of the Ordinance provides that any data user knowingly supplies information that is false or misleading commits an offence and is liable to a fine at level 3 and to imprisonment for up to six months.

3.25 Section 64(10) provides that it is an offence for a data user to contravene any requirement under the Ordinance without reasonable excuse. Such contraventions would include not submitting Returns or submitting Returns late. The charging of different levels of fee on Data Users who submit late Returns will not prejudice any prosecution actions to be taken against those Data Users for breaching the requirement to file Returns within the prescribed period. Where justified, the Commissioner may still refer those cases to the Government for prosecution.

Timetable

3.26 After taking into consideration of the views and comments of bodies representative of the proposed class of data users, the Commissioner intends to finalize the operation and implementation framework of DURS by the end of 2011. With the support of the Government, it is expected that the legislative process to follow will take about six months and the Notice will be published in the Gazette in mid 2012. Allowing time for the Legislative Council to scrutinize the Notice, which is subsidiary legislation, the Notice may commence in the fourth quarter of 2012. In accordance with section 14(4)(c) of the Ordinance, Data Users of the specified class shall submit Returns to the Commissioner not earlier than three months before, and not later than, each anniversary of the commencement of Notice. This means Data Users will need to submit Returns around the second half of 2013.

Invitation of Comments

3.27 Views and comments are invited on the proposed operational and implementation framework of DURS from bodies representative of proposed

classes of data users.

Data User Returns and Register of Data Users
Relevant Provisions of the Ordinance

Section 2 Interpretation

“data user”, in relation to personal data, means a person who, either alone or jointly or in common with other persons, controls the collection, holding, processing or use of the data.

“data user return” means a data user return referred to in section 14(4).

“personal data” means any data-

- (a) relating directly or indirectly to a living individual;*
- (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and*
- (c) in a form in which access to or processing of the data is practicable.*

“register” means the register of data users kept and maintained by the Commissioner under section 15(1).

Section 14 Data user returns

(1) Subject to subsection (2), the Commissioner may, by notice in the Gazette, specify a class of data users to which this section shall apply.

(2) The Commissioner shall, before specifying a class of data users in a notice under subsection (1), consult with-

- (a) such bodies representative of data users belonging to that class; and*
 - (b) such other interested persons,*
- as he thinks fit.*

(3) This section shall not apply to a data user except a data user belonging to a class of data users specified in a notice under subsection (1) which is in force.

(4) A data user shall submit to the Commissioner a data user return-

- (a) in the specified form;*
- (b) containing the prescribed information required by the return in relation to the data user;*
- (c) in the case of-*

- (i) *a data user which belongs to the class of data users concerned on the day on which the notice under subsection (1) specifying that class commences, not earlier than 3 months before, and not later than, each anniversary of that day;*
- (ii) *a data user which first belongs to the class of data users concerned on a day after the day on which the notice under subsection (1) specifying that class commences, not earlier than 3 months before, and not later than, each anniversary of that first-mentioned day; and*
- (d) *accompanied by the prescribed fee.*

(5) *The Commissioner shall cause a notice to be published not less than once during every period of 6 months-*

- (a) *in-*
 - (i) *the Gazette; and*
 - (ii) *not less than 1 Chinese language newspaper (and in the Chinese language) and not less than 1 English language newspaper (and in the English language), each of which shall be a newspaper circulating generally in Hong Kong; and*
- (b) *subject to subsection (6), specifying the places at which and the hours during which data user returns are available to be obtained by data users for the purposes of this section.*

(6) *The Commissioner shall not exercise his power under subsection (5)(b) to specify places which are Government offices unless and until he has the approval in writing of the Secretary for Constitutional and Mainland Affairs to do so. (Amended L.N. 130 of 2007)*

(7) *The Commissioner shall cause data user returns to be available to be obtained by data users-*

- (a) *free of charge; and*
- (b) *at the places and during the hours specified in the last notice published under subsection (5).*

(8) *Where any prescribed information contained in a data user return submitted under subsection (4) to the Commissioner by a data user changes subsequent to the submission, then the data user shall serve a notice in writing on the Commissioner specifying such change-*

- (a) *if, but only if-*
 - (i) *such information is specified in the return as information to which this subsection applies; and*

- (ii) *the return contains, or has annexed to it-*
 - (A) *a copy of this subsection; or*
 - (B) *a statement summarizing the requirement imposed by this subsection on the data user; and*
 - (b) *not later than 30 days after such change.*
- (9) *It is hereby declared that-*
- (a) *a notice under subsection (1) is subsidiary legislation;*
 - (b) *where a data user belongs to 2 or more classes of data users specified in 2 or more notices under subsection (1) which are in force, then, for the purposes of this section, that data user shall be deemed to belong only to that class of data users specified in the first of those notices to be published in the Gazette; and*
 - (c) *subsection (3) shall not operate to prejudice the generality of section 67(4)(c).*
- (10) *In this section and section 15, "prescribed information" means any information specified in Schedule 3.*

Section 15 Register of data users

- (1) *The Commissioner shall use-*
- (a) *data user returns submitted to him under section 14(4); and*
 - (b) *any notices served on him under section 14(8),*
- to keep and maintain a register of data users which have submitted such returns.*
- (2) *The register shall-*
- (a) *be in the form of a database; and*
 - (b) *contain, in respect of each data user who has submitted a data user return under section 14(4), such particulars of the information supplied in that return as the Commissioner thinks fit.*
- (3) *The Commissioner may, by notice in writing served on a data user, require the data user to submit a notice in the prescribed form containing such prescribed information in relation to the data user as the Commissioner may reasonably require in order to keep and maintain the register in so far as it relates to that data user, and the data user shall so submit the second-mentioned notice within such period (being a period of not less than 30 days after service of the first-mentioned notice) and in such manner as the Commissioner requires in the first-mentioned notice.*

(4) *Where any prescribed information submitted to the Commissioner under subsection (3) by a data user changes subsequent to the submission, then the data user shall serve a notice in writing on the Commissioner specifying such change-*

- (a) *if, but only if-*
 - (i) *such information is specified in the notice concerned under that subsection as information to which this subsection applies; and*
 - (ii) *the notice referred to in subparagraph (i) contains, or has annexed to it-*
 - (A) *a copy of this subsection; or*
 - (B) *a statement summarizing the requirement imposed by this subsection on the data user; and*
- (b) *not later than 30 days after such change.*

(5) *If the Commissioner is satisfied that a person has ceased to be a data user, he may delete from the register any particulars contained therein relating to that person in that person's capacity as a data user.*

(6) *A person who has ceased to be a data user may, by notice in the specified form served on the Commissioner, request the Commissioner to delete from the register the particulars contained therein relating to that person in that person's capacity as a data user, and the Commissioner shall, not later than 3 months after the date on which he receives that notice, comply with that request unless it has been withdrawn by that person.*

Section 16 Inspection of register

(1) *The Commissioner shall provide facilities for making the particulars contained in the register available for inspection-*

- (a) *by any person;*
- (b) *in visible and legible form;*
- (c) *during ordinary office hours; and*
- (d) *free of charge.*

(2) *The Commissioner shall-*

- (a) *on receipt of an application in the specified form from a person; and*
- (b) *on payment of the prescribed fee,*

provide a copy in writing of the particulars contained in the register in respect of the data user, or the class of data users, specified in the application.

Section 17 Register shall not limit, etc. operation of this Ordinance

- (1) For the avoidance of doubt, it is hereby declared that-
- (a) whether or not the register contains any particulars;
 - (b) any particulars contained in the register,
- in respect of a data user shall not of itself-
- (i) limit, restrict or qualify the operation of any of the provisions of this Ordinance (including section 2(5) and the data protection principles) in relation to the data user;
 - (ii) exempt the data user from the operation of any of the provisions of this Ordinance.

(2) Subsection (1) shall not prejudice the operation of any limitation, restriction, qualification or exemption provided for in the other provisions of this Ordinance.

Section 64 Offences

- (1) A data user who, in any-
- (a) data user return submitted under section 14(4) to the Commissioner;
 - (b) notice under section 14(8) served on the Commissioner, or
 - (c) notice under section 15(3) or (4) submitted to or served on the Commissioner,
- knowingly or recklessly supplies any information-
- (i) which is false or misleading in a material particular; and
 - (ii) in purported compliance with that section,
- commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

...

(10) A data user who, without reasonable excuse, contravenes any requirement under this Ordinance (other than a contravention of a data protection principle) for which no other penalty is specified in this section commits an offence and is liable on conviction to a fine at level 3.

Schedule 3 Prescribed information

1. The name and address of the data user.
2. A description of the kind of personal data in respect of which the data user is a data user.

3. *A description of the purpose or purposes for which the personal data referred to in item 2 are or are to be collected, held, processed or used by the data user.*
4. *A description of any classes of persons to whom the data user discloses, intends to disclose or may wish to disclose the personal data referred to in item 2.*
5. *The names or a description of any places outside Hong Kong to which the data user transfers, intends to transfer or may wish to transfer, the personal data referred to in item 2.*
6. *The name and address of the individual to whom data access requests may be made to the data user.*

Public Sector Organizations To Which DURS Applies

1. Agriculture, Fisheries and Conservation Department
2. Airport Authority
3. All registries and administrative offices of courts and tribunals for which the Judiciary Administrator has responsibility
4. Architectural Services Department
5. Audit Commission
6. Auxiliary Medical Service
7. Buildings Department
8. Census and Statistics Department
9. Civil Aid Service
10. Civil Aviation Department
11. Civil Engineering and Development Department
12. Companies Registry
13. Consumer Council
14. Correctional Services Department
15. Customs and Excise Department
16. Department of Health
17. Department of Justice
18. Drainage Services Department
19. Electrical and Mechanical Services Department
20. Employees Retraining Board
21. Environmental Protection Department
22. Equal Opportunities Commission
23. Estate Agents Authority
24. Financial Reporting Council
25. Fire Services Department
26. Food and Environmental Hygiene Department
27. General Office of the Chief Executive's Office
28. Government Flying Service
29. Government Laboratory
30. Government Logistics Department
31. Government Property Agency
32. Government Secretariat
33. Highways Department
34. Home Affairs Department

35. Hong Kong Arts Development Council
36. Hong Kong Auxiliary Police Force
37. Hong Kong Housing Authority
38. Hong Kong Housing Society
39. Hong Kong Monetary Authority
40. Hong Kong Observatory
41. Hong Kong Police Force
42. Hong Kong Sports Institute Limited
43. Hospital Authority
44. Housing Department
45. Immigration Department
46. Independent Commission Against Corruption
47. Information Services Department
48. Inland Revenue Department
49. Intellectual Property Department
50. Invest Hong Kong
51. Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service
52. Kowloon-Canton Railway Corporation
53. Labour Department
54. Land Registry
55. Lands Department
56. Legal Aid Department
57. Legislative Council Secretariat
58. Leisure and Cultural Services Department
59. Mandatory Provident Fund Schemes Authority
60. Marine Department
61. Office of the Ombudsman
62. Office of the Telecommunications Authority
63. Official Receiver's Office
64. Planning Department
65. Post Office
66. Radio Television Hong Kong
67. Rating and Valuation Department
68. Registration and Electoral Office
69. Secretariat of the Public Service Commission
70. Securities and Futures Commission

71. Social Welfare Department
72. Student Financial Assistance Agency
73. Television and Entertainment Licensing Authority
74. The Hong Kong Examinations and Assessment Authority
75. Trade and Industry Department
76. Transport Department
77. Treasury
78. University Grants Committee, Secretariat
79. Urban Renewal Authority
80. Vocational Training Council
81. Water Supplies Department
82. West Kowloon Cultural District Authority

**Master Template for Prescribed Information
Specified in Schedule 3 of the Ordinance**

1. **The name and address of the data user**
2. **A description of the kind(s) of personal data in respect of which the data user is a data user:**

Types of personal data

- (1) Personal details
 - Name
 - Telephone number
 - Mobile
 - Home
 - Business
 - Address
 - Residential
 - Business
 - Corresponding
 - Email address
 - Gender
 - Age
 - Date of birth
 - Hong Kong Identity Card or passport number
 - Nationality
 - Marital status
 - Employment status
 - Physical description
 - Fingerprint and other biometrics
 - Others (please specify)
- (2) Family, lifestyle and social circumstances
 - Number of family and household dependents/members
 - Personal particulars⁵ of family and household members
 - Current marriage/partnerships and/or marital history
 - Types of residence
 - Consumption pattern
 - Travel habits
 - Leisure activities
 - Membership of charitable or voluntary organizations joined

⁵ See the examples listed in “Personal details” of item (1) above

- Others (please specify)
- (3) Education and training details
- Education level
 - Academic records
 - Skills
 - Training records
 - Professional expertise/membership
 - Student and pupil records
 - Details of educational institutions studied
 - Others (please specify)
- (4) Employment details
- Employment and career history including job titles, name of employers, job descriptions and relevant salaries
 - Recruitment and termination details
 - Performance appraisals
 - Attendance records
 - Training records
 - Health and safety records in relation to employment
 - Others (please specify)
- (5) Financial details
- Income
 - Expenditures
 - Property ownership
 - Investments and assets
 - Liabilities
 - Creditworthiness
 - Benefits
 - Grants
 - Insurance details
 - Retirement schemes
 - Others (please specify)
- (6) Others (please specify)

Types of data subjects concerned

- (1) Staff including volunteers, agents, temporary and casual workers
- (2) Customers and clients
- (3) Suppliers
- (4) Members or supporters

- (5) Complainants, correspondents and enquirers
- (6) Relatives, guardians and associates of the data subject
- (7) Advisers, consultants and other professional experts
- (8) Patients
- (9) Students and pupils
- (10) Offenders and suspected offenders
- (11) Others (please specify)

3. A description of the purpose(s) for which personal data referred to in items 2 are or are to be collected, held, processed or used by the data user (please refer to Note for purpose description):

Purposes

- (1) Accounting and auditing
- (2) Accounts and records
- (3) Administration of justice
- (4) Administration of membership records
- (5) Advertising, marketing and public relations
- (6) Advertising, marketing and public relations for others
- (7) Assessment and collection of taxes and other revenue
- (8) Benefit, grants and loans administration
- (9) Consultancy and advisory services
- (10) Crime prevention and prosecution of offenders
- (11) Debt administration and factoring
- (12) Education
- (13) Fundraising
- (14) Health administration and services
- (15) Information and database administration
- (16) Insurance administration
- (17) Journalism and media
- (18) Legal services
- (19) Licensing and registration
- (20) Private investigation
- (21) Property management
- (22) Provision of financial services and advice
- (23) Research
- (24) Retirement scheme administration
- (25) Staff administration
- (26) Trading of personal data
- (27) Others (please specify)

4. A description of the class(es) of persons to whom the data user discloses, intends to disclose or may wish to disclose the personal data referred to in item 2:

Types of transferees

- (1) Data subject themselves
- (2) Persons associated with the data subject
 - Relatives
 - Guardians
 - Emergency contact persons
 - Beneficiaries
 - Others (please specify)
- (3) Employers of the data subject
 - Current
 - Past
 - Prospective
- (4) Medical or healthcare advisers or practitioners
- (5) Social and welfare advisers or practitioners
- (6) Professional advisers of the data user
 - Legal
 - Financial
 - Accounting
 - Others (please specify)
- (7) Education and training establishments
- (8) Examination bodies
- (9) Employees of the data user
- (10) Agent and contractor of the data user
- (11) Business associates of the data user
- (12) Other companies in the same group of the data user
- (13) Suppliers and providers of goods or services
- (14) Providers of reward, loyalty and privilege programs
- (15) Enquirers
- (16) Complainants
- (17) Financial organizations
- (18) Credit reference agencies
- (19) Debt collection agencies
- (20) Survey and research organizations
- (21) Traders of personal data
- (22) Trade associations
- (23) Employer associations
- (24) Labour unions
- (25) Professional bodies

- (26) Enforcement agencies
 - (27) Private investigators
 - (28) Government departments
 - (29) Voluntary and charitable organizations
 - (30) Political organizations
 - (31) Religious organizations
 - (32) Ombudsman
 - (33) Regulatory authorities
 - (34) The media
 - (35) Data processors
 - (36) Others (please specify)
- 5. The name or a description of any places outside Hong Kong to which the data user transfers, intends to transfer or may wish to transfer, the personal data referred to in item 2**
- 6. The name and address of the individual to whom data access requests may be made to the data user**

Note: Purpose Description

Standard business purposes

Staff administration

Appointments or removals, pay, discipline, superannuation, work management or other personnel matters in relation to the staff of the data user.

Accounts and records

Keeping accounts relating to any business or other activity carried out by the data user or deciding whether to accept any person as a customer or supplier or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by him or for him in respect of those transactions, or for the purpose of making financial or management forecasts to assist him in the conduct of any such business or activity.

Advertising, marketing and public relations

Advertising or marketing the data user's own business, activity, goods or services, and promoting public relations in connection with that business or activity, or those goods or services.

Other purposes

Accounting and auditing

The provision of accounting and related services; the provision of an audit where such an audit is required by statute.

Administration of justice

Internal administration and management of courts of law or tribunals and discharge of court business.

Administration of membership records

The administration of membership records.

Advertising, marketing and public relations for others

Public relations work, advertising and marketing, including host mailings for other organizations and list broking.

Assessment and collection of taxes and other revenue

Assessment and collection of taxes, duties, levies and other revenue. Data users will be asked to indicate the type of tax or other revenue concerned.

Benefits, grants and loans administration

The administration of welfare and other benefits. Data users will be asked to indicate the type(s) of benefit they are administering.

Consultancy and advisory services

Giving advice or rendering professional services. The provision of services of an advisory, consultancy or intermediary nature. Data users will be asked to indicate the nature of the services that they provide.

Crime prevention and prosecution of offenders

Crime prevention and detection and the apprehension and prosecution of offenders. This includes the use of CCTV systems that are used for this purpose.

Debt administration and factoring

The tracing of consumer and commercial debtors and the collection on behalf of creditors. The purchasing of consumer or trade debts, including rentals and instalment credit payments, from business.

Education

The provision of education or training as a primary function or as a business activity.

Fundraising

Fundraising in support of the objectives of the data user.

Health administration and services

The provision and administration of patient care.

Information and database administration

Maintenance of information or databases as a reference tool or general resource. This includes catalogues, lists, directories and bibliographic databases.

Insurance administration

The administration of life, health, pensions, property, motor and other insurance business. This applies only to insurance companies doing risk assessments, payment of claims and underwriting.

Journalism and media

Processing by the data user of any journalistic, literary or artistic material made or intended to be made available to the public or any section of the public.

Legal services

The provision of legal services, including advising and acting on behalf of clients.

Licensing and registration

The administration of licensing or maintenance of official registers.

Private investigation

The provision on a commercial basis of investigatory services according to instructions given by clients.

Property management

The management and administration of land, property and residential property and the estate management of other organizations.

Provision of financial services and advice

The provision of services as an intermediary in respect of any financial transactions including mortgage and insurance broking.

Research

Research in any field, including market, health, lifestyle, science or technology. Data users will be asked to indicate the nature of the research undertaken.

Retirement scheme administration

The administration of retirement schemes. Data users using personal data for this purpose will usually be the trustees and intermediaries of the retirement schemes.

Trading of personal data

The sale, hire, exchange or disclosure of personal information to third parties in return for goods/services/benefit.

Data User Return Form [electronic input]

1. Name of user account: _____
2. Password: _____
3. Class of data users*: _____ (select from drop down menu - pick one only)
4. Data user also under another class of data users*: Yes? (please specify) _____ (select from drop down menu; can pick more than one selection)
5. Name of data user*: _____
 English*: _____
 Chinese*: _____ (if applicable)
 Other name(s)*: _____ (English and/or Chinese)
6. Registered business address*: _____
7. Authorized Representative(s): _____
8. Details of contact person(s) for data user return
 Name: _____
 Post: _____
 Address: _____
 Telephone number: _____
 Email address: _____

Prescribed Information*

1. Name of data user^: _____
2. Address^: _____
3. Purpose#: _____ [repeat selection if more than one purpose]
 Description of the kind(s) of personal data
 Type(s) of personal data#: _____
 Type(s) of data subjects concerned#: _____
 Type(s) of transferees#: _____
 Place(s) outside Hong Kong to which personal data be transferred#: _____
4. Details of contact person(s) for data access requests:
 Name: _____
 Post: _____
 Address: _____

* *Information will be published in the Register*

^ Pre-filled from an earlier entry
Select from drop down menu (with sector-specific selections)

Optional Information	Yes	No	<u>Do not wish to provide</u>	<u>Agree to publish the information</u>
1. How many data subjects' personal data do you hold at the time of filing this return? <input type="checkbox"/> 1 – 999 <input type="checkbox"/> 1,000 – 4,999 <input type="checkbox"/> 5,000 and above			<input type="checkbox"/>	<input type="checkbox"/>
2. Do you have a website? If so, what is the URL address? <hr/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. (a) Do you have a Personal Information Collection Statement in line with Data Privacy Principle 1(3)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Do you wish to voluntarily furnish the Commissioner with a copy? If so, please provide.	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
4. (a) Do you have a Privacy Policy Statement in line with Data Privacy Principle 5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Do you wish to voluntarily furnish the Commissioner with a copy? If so, please provide.	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
5. How and when do you communicate to a data subject the purpose of collection, the intended use, the retention policy and the processing of his personal data? <hr/>			<input type="checkbox"/>	<input type="checkbox"/>
6. If you transfer the personal data collected to anyone outside Hong Kong where there is no statutory provision on personal data protection, is there any legally binding contractual arrangement requiring your overseas partner(s) to protect personal data privacy on the data being transferred? If so, please provide details. <hr/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. (a) Have you experienced any personal data breach/leakage incident before (first time Return) or since the last Return/reporting of incident?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Do you wish to voluntarily furnish the Commissioner with details of the incident? If so, please provide.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Register of Data Users
Example

PARTICULARS OF THE DATA USER

DURS number : 9876543
Date of submission : 24 April 2013
Class of data users : Telecommunications Industry
Data User : ABC Telecom
Other name(s) : ZZ Communications
Address : 52/F, 1234 Queen's Road, Hong Kong

This register entry contains personal data held for **3** purpose(s).

PRESCRIBED INFORMATION

Purpose 1: Staff administration

Purpose description:

Appointments or removals, pay, discipline, superannuation, work management or other personal matters in relation to the staff of the data user.

Description of the kind(s) of personal data:

Type(s) of personal data

- Personal details – name, telephone number (mobile, home), address (residential), gender, date of birth, Hong Kong Identity card or passport number, marital status
- Family, lifestyle and social circumstances – personal particulars of family and household members
- Education and training details – education level, skills, training records, professional expertise/membership
- Employment details – employment and career history, performance appraisals, attendance records, training records
- Financial details – income, retirement schemes

Type(s) of data subjects concerned

- Staff including volunteers, agents, temporary and casual workers
- Relatives, guardians and associates of the data subject

Type(s) of transferees:

- Data subjects themselves
- Persons associated with the data subject – relatives, guardians

- Employers of the data subject – current, past, prospective
- Education and training establishments
- Examining bodies
- Government departments

Place(s) outside Hong Kong to which personal data be transferred:

None

Purpose 2: Accounts and records

Purpose description:

Keeping accounts relating to any business or other activity carried out by the data user or deciding whether to accept any person as a customer or supplier or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by him or for him in respect of those transactions, or for the purpose of making financial or management forecasts to assist him in the conduct of any such business or activity.

Description of the kind(s) of personal data:

Type(s) of personal data

- Personal details – name, telephone number (mobile, business), address (business), email address
- Financial details – creditworthiness

Type(s) of data subjects concerned

- Customers and clients
- Suppliers

Type(s) of transferees:

- Business associates of the data user
- Other companies in the same group of the data user
- Suppliers and providers of goods or services
- Financial organizations
- Debt collection agencies
- Government departments
- Data processors

Place(s) outside Hong Kong to which personal data be transferred:

Mainland China

Purpose 3: Advertising, marketing and public relations**Purpose description:**

Advertising or marketing the data user's own business, activity, goods or services, and promoting public relations in connection with that business or activity, or those goods or services.

Description of the kind(s) of personal data:***Type(s) of personal data***

- Personal details – name, telephone number (mobile, business), address (business), email address
- Family, lifestyle and social circumstances – consumption pattern, travel habits

Type(s) of data subjects concerned

- Customers and clients
- Complainants, correspondents and enquirers
- Members or supporters
- Advisers, consultants and other professional experts

Type(s) of transferees:

- Data subjects themselves
- Business associates of the data user
- Suppliers and providers of goods or services
- Survey and research organizations
- Data processors

Place(s) outside Hong Kong to which personal data be transferred:

Mainland China

Details of contact person(s) for data access requests:

Name : Mr. T M Chan
Post : Data Protection Officer
Address : 52/F, 1234 Queen's Road, Hong Kong

OPTIONAL INFORMATION

	Yes	No	<u>Do not wish to provide</u>	<u>Agree to publish the information</u>
1. How many data subjects' personal data do you hold at the time of filing this return? <input type="checkbox"/> 1 – 999 <input type="checkbox"/> 1,000 – 4,999 <input checked="" type="checkbox"/> 5,000 and above			<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Do you have a website? If so, what is the URL address? abctele.com.hk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. (a) Do you have a Personal Information Collection Statement in line with Data Privacy Principle 1(3)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Do you wish to voluntarily furnish the Commissioner with a copy? If so, please provide. See attached.	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
4. (a) Do you have a Privacy Policy Statement in line with Data Privacy Principle 5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Do you wish to voluntarily furnish the Commissioner with a copy? If so, please provide. See attached.	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
5. How and when do you communicate to a data subject the purpose of collection, the intended use, the retention policy and the processing of his personal data? In writing, by serving the data subject with a copy of the company's Personal Information Collection Statement on or before collecting his/her personal data.			<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | | |
|--------|--|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| 6. | If you transfer the personal data collected to anyone outside Hong Kong where there is no statutory provision on personal data protection, is there any legally binding contractual arrangement requiring your overseas partner(s) to protect personal data privacy on the data being transferred? If so, please provide details.
Terms requiring the transferees to protect the transferred data are included in the relevant service agreements. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. (a) | Have you experienced any personal data breach/leakage incident before (first time Return) or since the last Return/reporting of incident? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) | Do you wish to voluntarily furnish the Commissioner with details of the incident? If so, please provide.
See attached. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |