

**Guidelines for obtaining consent from the personal data subject
according to the Personal Data Protection Act B.E.**

For the enforcement of the Personal Data Protection Act B.E. 2562 (2019) and all the rules, regulations and announcements issued under this Act especially with regard to obtaining consent from the owner. personal information according to the intent of the law as well as to provide clarity as a guideline Let the personal data controller and related parties apply to implement and act accordingly. which will be beneficial to Effectively protect personal data by virtue of Section 16 (3) of the Act. 2019, the Personal Data Protection Committee deems it appropriate to lay down the guidelines for the procedure for obtaining consent from the personal data subject as follows:

1. Meaning

for the benefit of operating proceed

according to this guideline. "Control and oversight agency" means a government or private agency having duties and powers to control, supervise and inspect the operation of "Professional Council" means a professional council established under the law on professions or various professional councils having the status of a juristic person. which has duties and powers to supervise the practice of professions as stipulated in the law on professions or professional councils;

2. Type and nature of consent request

The request for consent from the personal data subject can be divided into two

types: **2.1 In cases where there is a specific law or there is a regulatory or regulatory agency or a specific consent message**

In the event that there is a supervisory and supervisory body, professional councils, associations and industry groups or a specific legal entity requiring consent or forms or messages for requesting consent which is not contrary to or inconsistent with the Personal Data Protection Act B.E. The Compulsory Standard Form, in accordance with Section 3 of the Personal Data Protection Act B.E. Or a specific legal entity can require a controller of personal data that is in its control and regulation. For example, issuing rules on requesting consent of the Bank of Thailand or the Office of the Board of Directors.

Securities and Exchange Commission or Office of the Board of Directors to supervise and promote insurance business, etc.

2.2 In the case where there is no specific law or there is a regulatory or regulatory body to prescribe a form or message for requesting consent that is specifically enforced In the event that there is no

Establish a form or statement of consent that is compulsory. under other laws or by a supervisory or supervisory authority specifically stipulated to be complied with, and the Personal Data Protection Committee has not announced Requires the Data Controller to seek consent From the personal data subject according to the forms and messages specified in the announcement, the personal data controller may use the form. or messages that are organized The Voluntary Standard Form may be produced as a standard in any matter or manner, or may create its own consent form and message. In requesting consent and form or the request for consent should be carried out in accordance with the guidelines set forth by the Personal Data Protection Committee.

3. Consent Criteria

The controller of the personal data should be aware that The collection, use or disclosure of personal data may be carried out without the consent of the personal data subject. but must adhere to the exceptions that the Act on Personal Data Protection Act ("Lawful Basis") in accordance with Section 24 of the Personal Data Protection Act B.E. arrange to produce historical documents or archives for public benefit or related to research studies or statistics

2) to prevent or suppress a danger to life, body or health of a person; 3) it is necessary for the performance of a contract to which the data subject is a party; or for the implementation of the request of the Personal Data Subject prior to entering into the Agreement; 4) It is necessary for the performance of duties in performing carry out missions for the public interest

of the personal data controller or performing duties in the use of State powers granted to the Data Controller

5) It is necessary for the legitimate interests of the Personal Data Controller. or of a person or entity other than the Personal Data Controller. 6) It is in compliance with the law of the Personal Data Controller.

In the case of personal data about race, ethnicity, political opinion, creed, religion or philosophy sexual behavior Criminal records, health data, disability, union data, labor, genetic data, biological data, or any other information that affects the owner of personal data in a similar manner as announced by the Personal Data Protection Committee will be subject to the exceptions under Section 26 of the Personal Data Protection Act B.E.

For this reason, the consent of the personal data subject is the final legal base. that the Data Controller can use for the collection, use or disclosure of personal data. If it does not meet Other exemptions under section 24 or section 26, as the case may be, is a lawful request for consent under section 19 of the Personal Data Protection Act B.E. Specify the form or message in the Seek consent with compulsory conditions. other laws specifically The Personal Data Controller shall perform the following actions:

3.1 A request for consent from a complete personal data subject under section 19 is in accordance with the following rules:

(1) timing of requesting consent Consent must be obtained before or while

Doing the collection, use or disclosure of personal information

(2) in requesting consent from the subject of personal data Personal Data Controller The purpose and details of the consent request must be informed to the owner of the personal data before giving consent.

(3) Consent requests must state the specific purpose of consent, not general purpose; Easy to access and understand including using language that is easy to read and it is not a deception or to the owner of the data Personal misunderstandings on purpose

(5) The request for consent would be lawful. Only when the owner of the personal data Freely given consent from the personal data subject. Without fraud, deception, intimidation or misrepresentation (6) Consent must not be a condition that is compulsory or binding, or is a condition that requires the data subject to give consent before entering into a transaction. to perform contractual obligations, including providing any service to collect, use, or disclose personal information that is not necessary necessary or relevant for for entering into a contract, including the provision of services;

Description

in requesting consent Has the owner of the personal data voluntarily and independently provided his or her consent? consider that before or while giving consent Personal data subjects are free to make decisions. without a factor outside to pressure, force, threaten, deceive or mislead to the point that to the owner of the personal data express consent

An 1

example where Company A is the personal data controller serving the Application. (Application) via mobile phone In the photo editing, Company A has stated the conditions for using the application as service users or data subject The individual must give consent for Company A to use the personal information specified in the The location of the owner of the personal data according to the GPS coordinates (GPS Location) and Company A can record the behavior of using the application. such of yours of personal data for marketing purposes as well (Which is not related to or necessary for the service of photo editing) to be able to use the service. The user who is the owner of the personal information therefore presses to give cons Such consent does not constitute a voluntary and independent consent.

Example 2 :

A government agency provides repair services to road maintenance for the general public But the government agency said that the general public must provide personal information that is not related to road maintenance, such as an email address, to receive information about road maintenance. Only consent to the collection of such information through the application will be able to use the service of the Road Maintenance Data Monitoring Se Consent will not be able to use such services.

giving consent to the said government agency This does not constitute a voluntary and independent consent. road maintenance of that government agency without consent for the collection of personal data that is not related to road maintenance, such as addresses.
such e-mail

3.2 Asking for consent must not be part of the agreement. Legal contracts or conditions for purchasing goods, providing services or conducting transactions such as requests for consent must be clearly separated from the contract.

Example 3:

The bank asks its customers to give consent for the collection, use or disclosure of personal information without separating the consent form from the contract. but stated the message in the request That consent is part of the contract instead. This is not a lawful consent.

3.3 In requesting consent The purpose of the collection must be stated. Use or disclose personal information specifically (specific) to the owner of the personal information. and is prohibited to specify the purpose for collecting, using or disclosing many types or types of personal information or in general aggregate. It is in a single consent request.

Example 4

Company A makes a customer consent form for the purpose of (1) sending information to third parties for marketing and (2) collecting data for analytics purposes, for all types of Affiliate's business, this kind of consent is deemed to be an unspecified consent request. specific purpose

3.4 In requesting consent The personal data controller must notify the data subject.
personal note The following details before or at the time of collecting, using or disclosing personal data:

- (1) information about the personal data controller;
 - (3) the type of personal data to be collected;
 - (4) the right of the personal data subject to withdraw his consent.
- and details that

How can this be done?

3.5 Notification of the purpose and details of collecting, using and disclosing personal data can be done in a number of ways, for example by giving a written notice. verbal notification Text notifications in the form of SMS, email, MMS or by phone. or any other electronic method, such as specifying details in a URL or QR code, etc.

3.6 The request for consent must be made by the subject of personal data to have a clear affirmative act. action or can be clearly demonstrated that they have given their consent, such as submitting a consent letter made by the personal data subject, signing, giving consent In the consent form provided by the Personal Data Controller, clicking on the checkbox indicates "consent" by the Personal Data Subject himself. Pressing the button on the mobile phone twice in a row shows the confirmation intent. or slide the screen (swipe), etc. to indicate the intent of giving consent. of the owner of the personal data When it is clearly notified that the action The above statement represents an agreement. or consent to the collection, use or disclosure of personal information

remark

1) To collect personal information The Personal Data Controller is legally obligated to provide a privacy notice in accordance with Section 23 of the Personal Data Protection Act B.E. for personal data that the Data Controller has collected prior to the date The Personal Data Protection Act, B.E. The personal data controller can collect and continue to use that personal data for the original purposes under section 95, but for the collection Personal data that requires the consent of the personal data subject. The personal data controller must determine the method of revoking consent and disseminating information to the data subject who does not wish the controller. Personal data collected and used by such personal data can be easily withdrawn of consent.

4. The nature of consent required by law

Consent requests must be made expressly, either in writing or through the system. electronically, except under the condition that consent cannot be obtained by such means.

Description

A request for consent and express consent means that the data subject Individuals have demonstrated express statement of consent, which may be achieved by requiring the data subject to confirm their consent in writing. The Personal Data Controller may require the Personal Data Subject to sign it for clarity, without a doubt, and to keep it as However, the written consent of the personal data subject, signed, is not the only means of obtaining and express consent. Consent can be made in electronic form by various means such as filling out forms electronically, sending e-mails, sending electronic documents scanned from originals. or the use of electronic signatures may consider using a method by which the Personal Data Subject is identified and can reveal the Personal Data Subject's intent, and use reliable means appropriate for the purpose or any other means that can verify the Personal Data Subject. and can show the intention of the owner of the personal data by that means or in conjunction with other evidence according to the electronic transaction law which includes giving Consent using password, digital signature, electronic signature in the form biometrics (such as iris, fingerprints, faces, voices, or any other identity that can be verified the identity of the owner of the information real personal)

In addition, in some cases, verbal or physical consent may be clear, sufficient to constitute a lawful consent, such as when consent may be obtained in writing or through electronic systems. If providing details about obtaining explicit consent and get request the owner of the personal data to act or can be clearly demonstrated whether consent was given, for example by pressing a button or verbal confirmation, for example.

5. Withdrawal of Consent

The subject of the personal data must be able to withdraw his consent at any time. Consent is as simple as giving consent, unless there is a limit limiting the right to withdraw consent by Laws or contracts that benefit the owner of the personal data. The personal data controller must show details of methods, conditions or forms for withdrawing consent are prominent in the conspicuous area of obtaining consent either in writing or electronically.

Description

In the event that the Personal Data Controller requests consent from the Personal Data Subject and the Owner Personal data is intended by means of electronic consent, such as mouse clicks, consent, screen slides, or key strokes to provide consent. Withdrawal of consent is also required, the same method or the same level easily, or any other means by which the Personal Data Subject can It's as easy to access as asking for consent.

In the event that the personal data subject's consent is requested via the website or e-mail, and the personal data owner expresses his or her consent in the form of logging in to the system for consent or using an electronic signature to fill out. Consent Information or consent by Reliable electronic signatures in the form of biometrics such as faces, voices, or patterns, of connecting computer devices together to obtain consent in Internet of Things (IoT) systems. Withdrawal of consent also requires the same easy cancellation method or level of consent, or any other means by which the Personal Data Subject can also withdraw their consent easily.

Withdrawing consent must not create a burden, cost or procedure for the data subject, personal rather than consent and does not result in a service degradation.

Example 5

Company B provides concert ticket distribution services through application (Application) via mobile phone and obtaining consent from personal data subjects in collecting, using and disclosing personal data by giving consent of the personal data subject only by pressing agree or reject via the application or use a face scan to confirm or deny consent

The conditions for withdrawing consent also require the same method, or any other means that the owner of the information Individuals can also easily withdraw their consent if Company B states that "withdrawal of consent will be used to press the withdraw consent button or face scans can't withdraw consent Requires the owner of the personal information Call Company B during business hours only to withdraw consent." Conditions for withdrawing such consent considered **to be unlawful and** unenforceable because it creates a burden on the owner of the personal data and is not
How to withdraw consent as easily as giving consent

remark

1) Withdrawal of consent does not affect the collection, use or disclosure of information. Personal data subject to whom the personal data subject has given their consent But it will affect the collection, use or disclosure of personal data that occurs after the withdrawal of consent. The Data Controller must notify the Data Subject of the impact of the withdrawal of consent. 3) Withdrawal of Consent. It does not affect the collection, use or disclosure of personal data that may be performed without the consent of the personal data subject. In accordance with the exceptions under Section 24 and Section 26 of the Personal Data Protection Act B.E.

6. Consent and Withdrawal of Consent in the Case of

Minors To give consent of minors who own personal data The Data Controller should be aware that the Data Controller must exercise caution and standards in obtaining consent from A minor who is taller than a person who has reached the age of majority To protect minors from deception, fraud, intimidation, material mistreatment or unlawful acts **6.1 Age and nature of consent conditions.**

a) In the event that a minor is under the age of majority (over 10 years of age, but not yet legal)

Consent must be obtained expressly, provided that the minor can independently give consent on his own. legal acts that must be done self-actualization and is worthy of one's authority and is necessary for a reasonable living Or is it just to get one of the rights or to get out of any one duty (Section 22-24 of the Civil and Commercial Code), but if not in those cases? Consent of the user is required. a parent who has the power to act on behalf of a minor

Forms and conditions for obtaining consent must be in accordance with this Code of Conduct. In addition, any statement of information seeking consent from a minor in any form must be in the language or method that minors can easily understand and have appropriate age verification measures according to the level of risk, such as confirming the consent of the minor by using the minor's identification number or other reliable means that the person is a minor. b) In the event of a minor under the age of 10, the Data Controller shall only obtain consent from the parent authorized to act on behalf of the minor. The express consent of the administering authority not by obtaining consent should be reviewed. (verification) appropriate according to the level the risk that the consenting party is a user the parental power to act on behalf of the minor and must use language or how the user Administrative powers can c) Measures to determine the age of minors Let the personal data controller take measures Verify the identity of a minor or an appropriate parental authority based on the level of risk. The Personal Data Controller shall take into account the implications of the collection, use or disclosure of minors' personal data.

Example 6

Company C is an online game provider for minors and wishing to provide online games for minors, Company C should seek express consent as follows: 1) provide technical measures or conditions of service to minor applicants; Age can be specified as A minor who is able to give consent (over 10 years of age) or is a minor who requires the user's consent In the case of a minor under the age of 10, Company C should provide conditions for the minor to notify the user of the authority. The parental authority having the power to act on behalf of the minor gives consent and submits it to the user. Company C must directly request to confirm consent and record that consent

3) When the Data Controller has obtained consent by email or telephone from the User, already The personal data controller should record and verify the identity of the user, and Consent details whether it is correct or not through the e-mail or phone number provided by the user government authority or any other reliable method

4) in the case of complaints from the owner of the personal data or of the Office of the Personal Data Protection Commission that the consent of minors and/or users a parental power to act on behalf of a minor Company C should take measures to verify and verify the identity of minors and users of parental powers without delay.

In doing so The Personal Data Controller may collect personal data of minors and users of parental powers to the extent necessary. Necessary and unreasonable For identity verification and validation only in the legal contract

6.2 Withdrawal of Consent of a Minor

minors or users the same parental power to act on behalf of the minor

7. In the event that the owner of the personal data is an incompetent or quasi-incompetent person

In the event that the subject of personal data is an incompetent person or a quasi-incompetent person Ask for consent from the guardian who has the power to act on behalf of the incompetent person. or a competent guardian acting on behalf of the quasi-incompetent person, as the case may be, by applying the criteria for requesting consent in accordance with the guidelines

This action is applied mutatis mutandis.
