



**ZUL RAFIQUE** & *partners*

**PERSONAL DATA PROTECTION ACT**



## **BUSINESSES TO COMPLY WITH MINIMUM PERSONAL DATA PROTECTION REQUIREMENTS PROCEDURES DURING THE PERIOD OF CONDITIONAL MOVEMENT CONTROL ORDER**

The conditional movement control order ("CMCO"), as announced by the Prime Minister, commenced on 4 May 2020. During the CMCO, businesses that were allowed to operate must comply with the prescribed standard operating procedures ("SOP"). Amongst the SOP to be complied with are the collection, processing, and storage of personal data of customers/visitors to business premises. This is to allow the Ministry of Health of Malaysia to trace the customers/visitors in the event someone in the business premises is infected by the Covid-19 virus.

In conjunction with the Personal Data Protection Act 2010 ("PDPA"), the Department of the Personal Data Protection under the Ministry of Communications and Multimedia had approved an advisory on 21 May 2020 providing the minimum requirements that have to be complied by all business premises operating during CMCO.

**IF YOU REQUIRE  
ADVICE OR HAVE  
ANY QUERIES,  
PLEASE REACH  
OUT TO OUR:**



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# MINIMUM REQUIREMENTS MUST BE BASED ON THE PRINCIPLES LISTED BELOW:

## GENERAL PRINCIPLE (COLLECTION OF PERSONAL DATA)

The type of the customers'/visitors' personal data to be collected shall only be minimal and not excessive, e.g. the name, contact number, and the date of the arrival or visitation of the customers/visitors. Such personal information can be recorded manually or digitally.

## NOTICE AND CHOICE PRINCIPLE (DISPLAY OF NOTICE)

Business premises are required to clearly display a notice (in English and Bahasa Malaysia) stipulating the purpose of collecting and recording the customers'/visitors' personal data. The advisory has provided a sample notice.

## DISCLOSURE AND SECURITY PRINCIPLE (RECORD AND SAFETY OF THE PERSONAL DATA)

The recording of the customers'/visitors' personal data can only be recorded by the employees of the business premise to avoid unauthorised disclosure of information and the sample to record such information can be found in the advisory. Such personal data can only be collected for the purposes of contact tracing in the event Covid-19 has infected the business premise, and not for other purposes e.g. marketing. Reasonable precautionary measures are also necessary to ensure the data collected is safe.

## RETENTION PRINCIPLE (RETENTION OF THE PERSONAL DATA)

The personal data collected cannot be retained for more than 6 months from the date of the CMCO being lifted. Once the purpose has been fulfilled, such personal data is to be destroyed or permanently deleted.

## DATA INTEGRITY PRINCIPLE (ACCURATELY RECORD INFORMATION OF PERSONAL DATA)

All business premises have to ensure that the information collected from its customers/visitors will have to be recorded accurately and not misleading.

## ACCESS PRINCIPLE (ACCESS INFORMATION ON PERSONAL DATA)

For the purpose of this exercise, the access principle is not applicable. As such, the customers/visitors are not allowed to access or correct their personal data.

## ANY PENALTIES?

Business premises who fails to comply with the above requirements will be subject to a fine not more than RM300,000 OR imprisonment for a term not more than 2 years OR both.

The Department of Personal Data Protection indicated that they will monitor compliance from time to time.

**The contents do not constitute legal advice, are not intended to be a substitute for legal advice and should not be relied upon as such.**

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