

# Relevant Legislation in Data Protection and Responsible Use of Electronic Data

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*Doctor fined \$10,000 for spying on patients' records  
He accessed files of two not under his care*

In the first such case here, a doctor from the KK Women's and Children's Hospital (KKH) has been fined \$10,000 and censured for accessing the electronic medical records of two patients not under his care

# Section 3 Computer Misuse Act

3(1)- Subject to subsection (2), any person who knowingly causes a computer to perform any function for the purpose of securing access without authority to any program or data held in any computer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.



# Personal Data Protection Act

Section 4(4):

"This Act shall not apply in respect of —

(a) personal data about an individual that is contained in a record that has been in existence for at least 100 years;

or

(b) personal data about a deceased individual, except that the provisions relating to the disclosure of personal data and section 24 (protection of personal data) shall apply in respect of personal data about an individual who has been dead for 10 years or fewer."



# Personal Data Protection Act

Section 24:

"Protection of personal data - An organisation shall protect personal data in its possession or under its control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks."

# Personal Data Protection Act

Section 17(3):

"An organisation may disclose personal data about an individual, without the consent of the individual, only in the circumstances and subject to any condition in the Fourth Schedule."

# Fourth Schedule

## Disclosure of Personal Data Without Consent

1. An organisation may disclose personal data about an individual without the consent of the individual in any of the following circumstances:

(a) the disclosure is necessary for any purpose which is clearly in the interests of the individual, if consent for its disclosure cannot be obtained in a timely way;

(b) the disclosure is necessary to respond to an emergency that threatens the life, health or safety of the individual or another individual;



# Fourth Schedule

## Disclosure of Personal Data Without Consent

(c) subject to the conditions in paragraph 2, there are reasonable grounds to believe that the health or safety of the individual or another individual will be seriously affected and consent for the disclosure of the data cannot be obtained in a timely way;

[Para 2: In the case of disclosure under paragraph 1(c), the organisation shall, as soon as may be practicable, notify the individual whose personal data is disclosed of the disclosure and the purposes of the disclosure.]



# Fourth Schedule

## Disclosure of Personal Data Without Consent

- (d) the personal data is publicly available;
- (e) the disclosure is necessary in the national interest;
- (f) the disclosure is necessary for any investigation or proceedings;
- (g) the disclosure is to a public agency and such disclosure is necessary in the public interest;
- (j) the disclosure is necessary for the provision of legal services by the organisation to another person or for the organisation to obtain legal services;



# Fourth Schedule

## Disclosure of Personal Data Without Consent

(m) the personal data about the current or former patients of a healthcare institution licensed under the Private Hospitals and Medical Clinics Act (Cap. 248) or any other prescribed healthcare body is disclosed to a public agency for the purposes of policy formulation or review;

(n) the personal data is disclosed to any officer of a prescribed law enforcement agency, upon production of written authorisation signed by the head or director of that law enforcement agency or a person of a similar rank, certifying that the personal data is necessary for the purposes of the functions or duties of the officer;



# Fourth Schedule

## Disclosure of Personal Data Without Consent

- (o) the disclosure is for the purpose of contacting the next of kin or a friend of any injured, ill or deceased individual;
- (q) subject to the conditions in paragraph 4, the disclosure is for a research purpose, including historical or statistical research;

# Research Exception

4. Paragraph 1(q) shall not apply unless —

(a) the research purpose cannot reasonably be accomplished without the personal data being provided in an individually identifiable form;

(b) it is impracticable for the organisation to seek the consent of the individual for the disclosure;

(c) the personal data will not be used to contact persons to ask them to participate in the research;

(d) linkage of the personal data to other information is not harmful to the individuals identified by the personal data and the benefits to be derived from the linkage are clearly in the public interest; and



# Research Exception

- (e) the organisation to which the personal data is to be disclosed has signed an agreement to comply with —
- (i) this Act;
  - (ii) the policies and procedures relating to the confidentiality of personal data of the organisation that collected the personal data;
  - (iii) security and confidentiality conditions of the organisation disclosing the personal data;
  - (iv) a requirement to remove or destroy individual identifiers at the earliest reasonable opportunity; and
  - (v) a requirement not to use the personal data for any other purpose or to disclose the personal data in individually identifiable form without the express authorisation of the organisation that disclosed the personal data.

# Medico-Legal Challenges

## Most Common Problems

- Loss of/Breaches related to copied data
- Unauthorized access
- Breach of Security