



# Employee Data Privacy – Hong Kong

## Fines and Penalties

### What are the penalties for noncompliance with any applicable data protection laws?

Noncompliance with Data Privacy Laws and Data breaches may lead to sanctions, fines, and penalties. The amounts are usually calculated according to the risk to which personal rights were exposed and the preventive measures taken by the data controllers, processors and sub-processors in relation to their respective role in the chain of personal data processing.

Hong Kong's Personal Data (Privacy) Ordinance originally did not create direct criminal offences for noncompliance with the data protection principles. This changed when the Personal Data (Privacy) (Amendment) Ordinance 2021 (Amendment Ordinance) came into effect in October 2021.

The Amendment Ordinance includes criminalizing doxing (disclosing personal information of targeted individuals and groups without consent) at two different tiers. The first tier is a summary offence for disclosing any personal data of a data subject (i) without the relevant consent of the data subject, and (ii) with intent to harm or, is being reckless as to whether there would be harm or likely harm, caused to the data subject or the data subject's family member. This offence is liable to a fine of HK\$100,000 and to imprisonment for 2 years.

The second tier doxing offence is an indictable offence for (i) disclosing personal data of a data subject without the relevant consent; (ii) with intent to harm or, being reckless as to whether there would be any harm or likely harm, caused to the data subject or the data subject's family member; and (iii) the disclosure causes any specified harm to the data subject or the data subject's family member. This offence is liable for a fine of HK\$1,000,000 and imprisonment for 5 years.

Misusing or inappropriately using personal data in direct marketing, non-compliance with individual data access requests and unauthorized disclosure of personal data can also result in criminal penalties.



### HR Best Practices:

Before processing personal data, make sure to be in line with the security measures

necessary to ensure data security within your organization. In the event an employee or third-party performs a wrongful act, employers may only be able to avoid liability in cases where the employer can prove reasonable practical steps were taken to prevent the employee (or third-party) from engaging in wrongful acts and practices.

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