

Japan revised guidelines tighten data security

Guidelines published to supplement Japan's data privacy law will increase the compliance burden for organisations engaging in data transfers and processing, but also provides necessary clarifications.

Japan's data protection authority, known as the PPC, published revised guidelines on the country's data law – APPI – on 2 August following a public consultation. The guidelines relate to 2020 amendments to the APPI.

The 2020 reforms created “personally referable information” as a new category of information. This category refers to data that could be used to identify individuals, such as cookies and purchase history, which could be classed as personal data if it were transferred to an organisation in possession of related data. Organisations do not need to seek data subject consent when they process personally referable information, the guidelines specify.

The revised guidelines have also provided further clarification on international data transfer requirements, in a bid to align the APPI's rules with European post-Schrems II guidance on supplementary measures.

Japan now forces transferring companies to inform data subjects about the country that will receive the data, as well as the levels of data protection granted by the country and the recipient organisation.

Additionally, the APPI states that exporters must not only impose APPI-equivalent obligations on importers, but also take “necessary action to ensure continuous implementation” of these obligations.

The updated guidance says transferring operators will not necessarily breach the APPI if they respond to foreign governments' data access requests. Operators can provide personal data in response to requests if doing so is necessary and the request is lawful; each request must be assessed on a case-by-case basis.

S&K Brussels managing director Takeshige Sugimoto: “We should also bear in mind that the PPC will make further announcements on the information about the foreign laws and practice in upcoming fall and will publish its Q&A based on these confirmed guidelines sometime before the above effective date.”

Iwata Godo partner Akira Matsuda said: “Most of the revisions are in the direction of strengthening regulation. However, the detailed guidelines will allow businesses to tailor their compliance systems to the new regulations.”

All amendments will come into effect on 1 April 2022.