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Japan tightens data protection rules

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The Japanese government has introduced a slew of amendments to its data protection law which strengthen individual data rights and up enforcement measures to include jail time.

The Cabinet of Japan approved a bill last week which amends the country's Personal Information Protection Law – Japan's data privacy legislation. The bill, which was originally submitted to the national legislature last October, has introduced a series of changes including mandatory breach notification and the strengthening of data subjects' rights.

Among the expansion of subjects' rights, the bill makes it easier for individuals to request that businesses stop using their data or to request data be deleted.

Under the changes, data breaches involving personal information must be reported to the Japanese data protection authority as well as to the relevant individuals. Guidelines for reporting are currently undecided but will follow in later legislation. The bill also

requires that companies inform individuals of their intention to transfer personal data outside of Japan.

The new measures also tighten enforcement around violations of the law. Operators that fail to comply with orders made by the Japanese authority may face a penalty of up to 100 million yen (\$940,000). Individuals may also be subject to up to 1 year imprisonment or fines of 1 million yen (\$9,400).

Takashi Nakazaki, special counsel at Anderson Mori & Tomotsune in Tokyo, said that the changes are more focused on individual rights than protecting businesses. “In short, these amendments give priority to protecting personal data rather than promoting data business such as utilising personal data for commercial purposes,” he said.

Nakazaki pointed to increased data rights, noting that subjects may “request a company to stop utilising or disclosing their data in cases where the data is being used for advertisements or promotions.” Under the current regime, data subjects can only request the suspension of the use of their data if the controller is at fault, such as if the data was illegally acquired, he said.

He also noted that when intending to transfer personal data, companies must provide “sufficient information” on the transfer to obtain consent.

But some observers suggested the amendments will also help businesses. Akira Matsuda, a partner at Iwata Godo in Tokyo, said the new regulations could help data commercialisation projects. “The amendment is balancing the protection of personal data and the interest of the corporates to utilise it,” he said.

The amendments also introduce the concept of pseudonymised data – a method of processing

in which the data is wiped of personal identification. According to Matsuda, the definition of pseudonymised data under the new regulation is “basically identical to the GDPR”. Pseudonymised data will be limited to internal company use and not allowed to be transferred to third parties, said Matsuda.

Anderson Mori & Tomotsune partner Nakazaki said the use of pseudonymised data is aimed at “promoting data business” – as companies are more free to use the data when it is not personally identifiable.

The changes come nearly two years after the EU and Japan [recognised](#) each other’s data protection regimes as adequate – in a move that created the world’s largest “safe data transfer area”.