

REPUBLIC OF THE PHILIPPINES

Congress of the Philippines

Metro Manila

Fifteenth Congress

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REPUBLIC ACT NO. XXXXX

AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 10173, OTHERWISE  
KNOWN AS “THE DATA PRIVACY ACT OF 2012”

Be it enacted by the Senate and House of Representatives of the Philippine Congress

Assembled:

PROPOSED AMENDMENT TO REPUBLIC ACT NO. 10173 AN ACT PROTECTING  
INDIVIDUAL PERSONAL INFORMATION IN INFORMATION AND COMMUNICATIONS  
SYSTEMS IN THE GOVERNMENT AND THE PRIVATE SECTOR, CREATING FOR THIS  
PURPOSE A NATIONAL PRIVACY COMMISSION, AND FOR OTHER PURPOSES

PREAMBLE:

It is known that technology has been growing at an exponential rate. Every year, new technologies are innovated to make the lives of many more efficient and easier. However, with the addition of new technologies, new problems and loopholes in the law emerge. Currently, an emerging problem stems from the protection of people’s privacy rights. Although the Republic Act No. 10173 (Data Privacy Act of 2012) has been effective to an extent, it fails to address some of the emerging issues regarding data privacy. With this, this proposed amendment aims to strengthen the existing Act.

## SECTION-BY-SECTION AMENDMENT:

Section 1. Section 7 of Republic Act No 10173 is hereby amended to read as follows;

SEC. 7. Functions of the National Privacy Commission. – To administer and implement the provisions of this Act, and to monitor and ensure compliance of the country with international standards set for data protection, there is hereby created an independent body to be known as the National Privacy Commission, which shall have the following functions:

(a) Ensure compliance of personal information controllers with the provisions of this Act; and conduct proactive assessments

(b) Handle complaints, institute investigations, facilitate or enable settlement of complaints through the use of alternative dispute resolution processes, adjudicate, award indemnity on matters affecting any personal information, prepare reports on disposition of complaints and resolution of any investigation it initiates, and, in cases it deems appropriate, publicize any such report: Provided, That in resolving any complaint or investigation (except where amicable settlement is reached by the parties), the Commission shall act as a collegial body. For this purpose, the Commission may be given access to personal information that is subject to any complaint and to collect the information necessary to perform its functions under this Act. Additionally, the Commission will also be allowed to impose significant and necessary penalties or sanctions depending on the severity of the violations

(c) Issue cease and desist orders, impose a temporary or permanent ban on the processing of personal information, upon finding that the processing will be detrimental to national security and public interest;

(d) Compel or petition any entity, government agency, or instrumentality to abide by its orders or take action on a matter affecting data privacy;

(e) Monitor the compliance of other government agencies or instrumentalities on their security and technical measures and recommend the necessary action in order to meet minimum standards for protection of personal information pursuant to this Act;

(f) Coordinate with other government agencies and the private sector on efforts to formulate and implement plans and policies to strengthen the protection of personal information in the country;

(g) Publish on a regular basis a guide to all laws relating to data protection;

(h) Publish a compilation of agency system of records and notices, including index and other finding aids;

(i) Recommend to the Department of Justice (DOJ) the prosecution and imposition of penalties specified in Sections 25 to 29 of this Act;

(j) Review, approve, reject, or require modification of privacy codes voluntarily adhered to by personal information controllers: Provided, That the privacy codes shall adhere to the underlying data privacy principles embodied in this Act: Provided, further, That such privacy codes may include private dispute resolution mechanisms for complaints against any participating personal information controller. For this purpose, the Commission shall consult with relevant regulatory agencies in the formulation and administration of privacy codes applying the standards set out in this Act, with respect to the persons, entities, business activities and business sectors that said regulatory bodies are authorized to principally regulate pursuant to the law: Provided,

finally. That the Commission may review such privacy codes and require changes thereto for purposes of complying with this Act;

(k) Provide assistance on matters relating to privacy or data protection at the request of a national or local agency, a private entity, or any person;

(l) Comment on the implication on data privacy of proposed national or local statutes, regulations, or procedures, issue advisory opinions, and interpret the provisions of this Act and other data privacy laws;

(m) Propose legislation, amendments, or modifications to Philippine laws on privacy or data protection as may be necessary;

(n) Ensure proper and effective coordination with data privacy regulators in other countries and private accountability agents, participate in international and regional initiatives for data privacy protection;

(o) Negotiate and contract with other data privacy authorities of other countries for cross-border application and implementation of respective privacy laws;

(p) Assist Philippine companies doing business abroad to respond to foreign privacy or data protection laws and regulations; and

(q) Generally perform such acts as may be necessary to facilitate cross-border enforcement of data privacy protection.

(r) Undertake and promote education and awareness programs with the purpose of informing the public, and businesses about data privacy. More specifically, it aims to inform citizens about their rights, and responsibilities under this Act. The NPC shall develop and spread educational materials and conduct training sessions to strengthen the citizen's understanding and compliance with the Act.

Section 2. Section 8 of Republic Act No 10173 is hereby amended to read as follows;

SEC. 8. Confidentiality. – The Commission shall ensure at all times the confidentiality of any personal information that comes to its knowledge and possession. To uphold this commitment:

- (a) The Commission shall install robust security measures. These measures must be regularly monitored and updated to align itself with the technological advancements.
- (b) The NPC must maintain transparency regarding its data processing practices. This includes information about what type of data they have, why they have it, and how they plan to keep this data safe. This type of information should be made publicly available online.
- (c) The NPC must establish systems that monitor and analyze the emerging technologies, threats, and challenges related to data privacy.
- (d) The NPC shall engage with experts in the industry, including research institutions and internal organizations to ensure that they are made aware of the new technologies and their risks as soon as possible.
- (e) Failure to adhere to the measures outlined in subsections (a) to (d) that result in a breach of confidentiality may subject the NPC to the penalties outlined in sections 25 to 29 of this Act.

Section 3. If, for any reason, any provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected shall continue to be in full force and effect.

Section 4. All laws, decrees, orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

Section 5. This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

**Explanation:**

- The modification to subsection “a” gives the NPC the power to conduct assessments as they see fit. This allows them to conduct assessments such as on-site inspections, and evaluations, which fortifies their role in ensuring compliance with the Data Privacy Act.
- The modification to subsection “b” gives the NPC the ability to penalize violators as they see fit. This modification increases the stakes of violations, scaring people from doing something illegal that has been made easier to do due to the constant technological developments.
- As technology keeps on upgrading, it is inevitable that the Act will have to be modified from time to time. With this, it will be hard for citizens to keep up with the constant changes. This exacerbates the need for the NPC to spread awareness and constantly educate the citizens on the changes, hence the addition of subsection “f” Additionally, it will serve as a reminder as to what the citizens can and cannot do.

- The amendment to section 8 strengthens the section by making the processes transparent. This allows the citizens to be made aware of the data being used, and what data should not be shared. Additionally, subjecting even the NPC to the fines promotes accountability, and ensures that the Commission is doing their best. Additionally, the NPC will be able to use the information gathered to provide timely and necessary amendments to the Act. This ensures that the act will maintain its relevance and effectiveness over time, promoting fairness.

Sources:

Original Act: Republic act no. 10173 | Official Gazette of the Republic of the ... (2012, August 15). <https://www.officialgazette.gov.ph/2012/08/15/republic-act-no-10173/>

Format from: The LAWPHiL Project. (2013, October 3). Republic act no. 10631.

[https://lawphil.net/statutes/repacts/ra2013/ra\\_10631\\_2013.html?fbclid=IwAR2NDSzGFxHLVgfivcY\\_zNKDn-WiKNN6TWJ5dfF2FyDoMd3iNslrjGDM4Qo](https://lawphil.net/statutes/repacts/ra2013/ra_10631_2013.html?fbclid=IwAR2NDSzGFxHLVgfivcY_zNKDn-WiKNN6TWJ5dfF2FyDoMd3iNslrjGDM4Qo)