



China's new Personal Information Protection Law

(Information as at August 2022)

In August 2021, China's top legislature, the Standing Committee of the National People's Congress, passed China's first comprehensive law on personal information protection – **Personal Information Protection Law**¹ (PIPL) – which came into effect on 1 November 2021. The PIPL is intended to protect personal information and to regulate how it is processed, including cross-border handling of personal information. This law may affect Australian providers, particularly when collecting and processing Chinese student data. Providers should review the PIPL requirements, and may need to seek legal advice.

Under the PIPL, "personal information" refers to any information concerning natural persons in China that is recorded electronically or through other means, with the exception of data that has been anonymised². "Personal information processing" is the collection, storage, use, processing, transmission, provision, publication, and erasure of information. The PIPL notably specifies that the law encompasses the transfer of personal information data from China to offshore organisations for the purpose of supplying products/services to domestic natural persons, analysing and evaluating operations of domestic natural persons, or other purpose permitted by applicable laws and administrative regulations.

Article 38 of the PIPL requires any individual or organisation³ wishing to transfer personal data from China to an offshore location, for commercial or other reasons, to comply with specific state cyberspace administration requirements.

The processing of data planned to be transferred offshore will also need to meet a range of requirements, including having a "specific and reasonable purpose", ensuring the security of the information, and disclosing the process to the individual whose personal information is involved.

Under the PIPL, foreign entities that are deemed to have violated the personal information rights and interests of the Chinese people and/or endangered the national security or public interest of China through their information processing activities may be subject to sanctions, including being

placed on a “negative list” by the Chinese national cybersecurity administration. The PIPL also stipulates that any country or region that takes discriminatory, prohibitive, restrictive or other similar measures against China in respect to these matters may see China taking a reciprocal approach.

The PIPL also goes into detail on some key aspects of data processing, including the management of sensitive data and of data concerning minors. It also imposes sanctions and legal liabilities for information processors that fail to adhere to the PIPL.

Some supporting documents on the procedures outlined in the PIPL have recently been published. In June 2022, the Cyberspace Administration of China (CAC) released a draft document “*Standard Contracts for Cross-border Transfer of Personal Information*”⁴ for comment. In July 2022, the CAC issued the “*Measures for Security Assessment for Cross-Border Data Transfers*”⁵, which will take effect from September 2022. Both documents provide further information on Article 38 of the PIPL, which deals with the transfer of personal information data from China to an overseas location. It is expected that other supporting documents of the PIPL will be released in the near future.

The PIPL is expected to work together with the Cybersecurity Law (CSL) and Data Security Law (DSL) that (both also passed recently) to oversee the data security of China.

Education providers and other organisations potentially subject to the PIPL are advised to conduct a self-assessment of their compliance with the law and, where necessary, seek professional legal advice.

For further enquiries, please contact the [Education and Research Section](#) of the Australian Embassy in Beijing.

¹ People's Republic of China, The National People's Congress, “中华人民共和国个人信息保护法 (*Personal Information Protection Law of the People's Republic of China*)”, 20 August 2021.

<http://www.npc.gov.cn/npc/c30834/202108/a8c4e3672c74491a80b53a172bb753fe.shtml>

² Anonymised data are information that have been irreversibly removed of all identifiers and that the data subjects are no longer identifiable in any way

³ Referred in the PIPL as “Personal Information Processor”

⁴ People's Republic of China, Cyberspace Administration of China, “国家互联网信息办公室关于《个人信息出境标准合同规定（征求意见稿）》公开征求意见的通知 (*Notice of the the Cyberspace Administration of China on the Public Consultation on the Standard Contracts for Cross-border Transfer of Personal Information (Draft for Comments)*)”, 30 June 2022.

http://www.moj.gov.cn/pub/sfbgw/lfyjzj/lflfyjzj/202206/t20220630_458805.html

⁵ People's Republic of China, Cyberspace Administration of China, “数据出境安全评估办法 (*Measures for Security Assessment for Cross-Border Data Transfers*)”, 7 July 2022.

http://www.gov.cn/zhengce/zhengceku/2022-07/08/content_5699851.htm