

# Outline of the Institutional Revision for Utilization of Personal Data

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National Strategy Office of Information and  
Communications Technology,  
Cabinet Secretariat,  
Government of JAPAN

# 1. Clarifying the definition of Personal Information

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We will newly define the information that is related to a living individual, and that corresponds to one of the following symbols, numbers, codes and other marks which is determined in a Cabinet Order, as a new part of the term "personal information".

- (1) Marks which have been converted from characteristics about part of the body of a specific individual for computer use, and which can identify the individual.  
e.g. fingerprint data, facial-recognition data
- (2) Marks which are assigned or written in papers that are issued to individuals on the use of services and purchase of goods, and that differs to other users, purchasers or other individuals who receive it, and which can identify the specific individual.  
e.g. passport number, driver's license number

※Definition of "personal information" in the Current Law;

The term "personal information" as used in this Act shall mean information about a living individual which can identify the specific individual by name, date of birth or other description contained in such information (including such information as will allow easy reference to other information and will thereby enable the identification of the specific individual).

## Definition of Personal Information



business

### Personal Information

Information about a living individual which **can identify the specific individual** by name, date of birth or other description contained in such information.



name

address

date of birth

**Information that corresponds to one of the following symbols, numbers, codes and other marks which is determined in a Cabinet Order. (to clarify that it is personal information)**



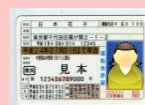
Fingerprint data



Facial-recognition data



Passport number



Driver's license number

(1) Marks which have been converted from characteristics about part of the body of a specific individual for computer use, which can identify the individual

(2) Marks which are assigned or written in papers that are issued to individuals on the use of services and purchase of goods, which can identify the specific individual

Information as will **allow easy reference to other information** and will thereby enable the identification of the specific individual.



movement records linked to personal information



purchase records linked to personal information

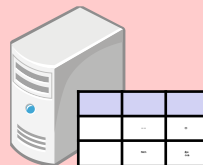
systematically arranged

### Personal information database, etc.

An assembly of information systematically arranged.

### 'Personal data' (as is defined in the law)

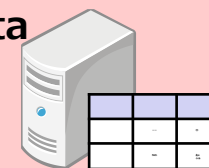
Personal information constituting a personal information database, etc.



storage

### Retained personal data

The data that has the authority to disclose, etc. and stored longer than the period specified by a Cabinet Order.



## 2. Establishing regulations to ensure usability of personal information under appropriate discipline

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### (1) Regulations about “De-identified Information (provisional)”

- (a) To process personal information to De-identified Information for provision to a third party, it is required to create the personal information to the form that is unable to restore the original information (e.g. deletion, including substitution to other description, of the descriptions which can identify the specific individual from personal information), according to the Rules of Personal Information Protection Commission (hereinafter “the Commission”). And also, it is required to take necessary and appropriate measures for the prevention of leakage of information such as descriptions deleted and methods of the process.
- (b) To provide De-identified Information to a third party, a business operator handling personal information has to publish that it is intending to do so, and clearly indicate the party that the information provided is De-identified Information.

## 2. Establishing regulations to ensure usability of personal information under appropriate discipline (cont.)

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### (1) Regulations about “De-identified Information (provisional)”

- (c) A business operator handling De-identified Information acquired in process(b), is not allowed to obtain descriptions deleted and methods of the process in process(a), nor to compare the De-identified Information with other information to identify the said person of the De-identified Information (including the case when handling De-identified Information acquired in the process(d) for its business).
- (d) To provide De-identified Information acquired in the process(b) to a third party, it is required to publish that a business operator is intending to do so, and clearly indicate the party that the information provided is De-identified Information (including the case when it provides De-identified Information acquired in the process(d) to a third party).

## 2. Establishing regulations to ensure usability of personal information under appropriate discipline (cont.)

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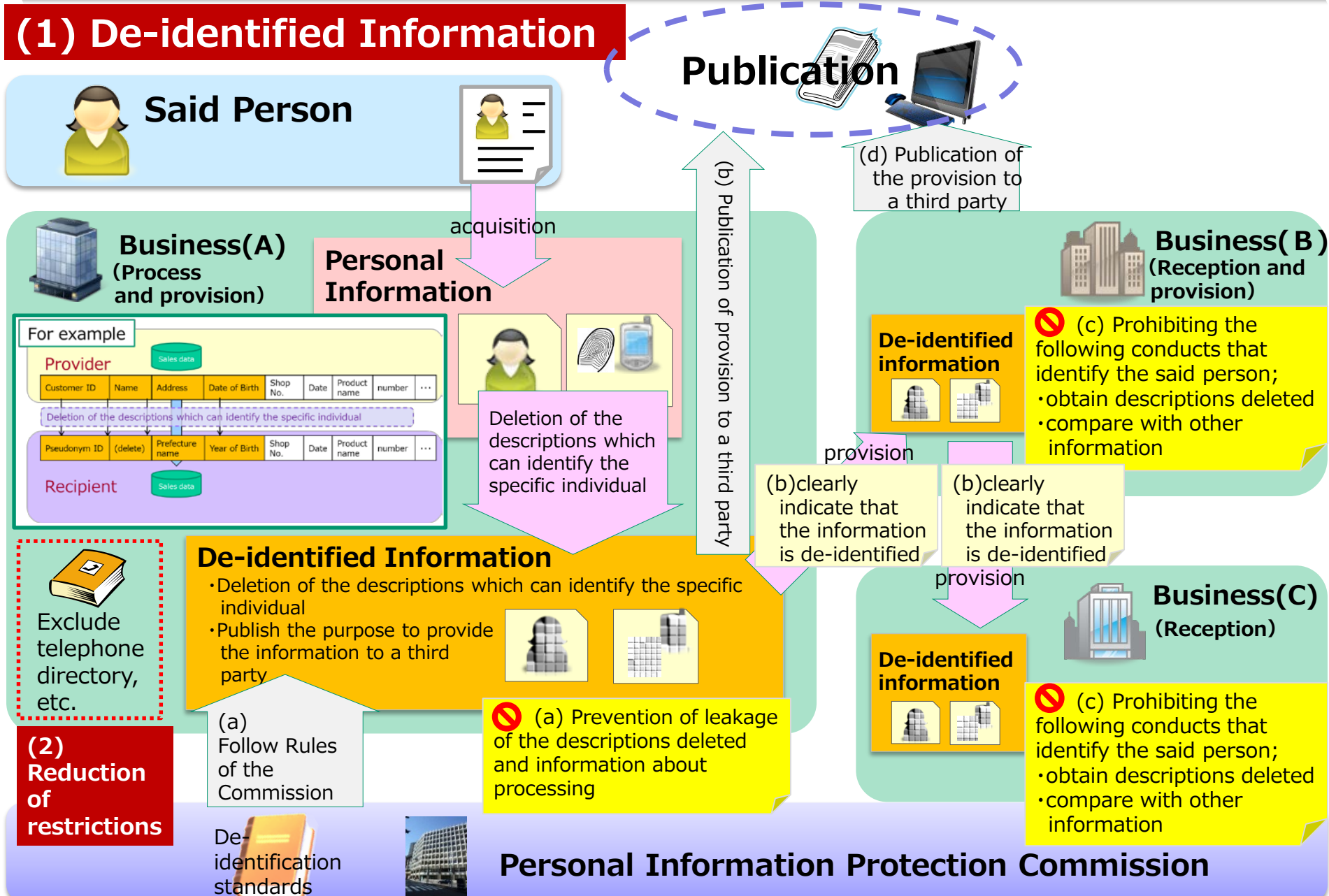
### (2) Reduction of restrictions according to the manner of utilization

The information which has less risk of violating rights and interests of individuals according to the manner it is utilized, will be excluded from the restrictions about "a personal information database, etc.".

## 2. Establishing regulations to ensure usability of personal information under appropriate discipline (cont.)

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### (1) De-identified Information



### **3. Establishing regulations to reinforce protection of personal information**

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#### **(1) Establishing regulations of Sensitive information**

To avoid generating unfair discrimination or prejudice against each individuals, personal information which contains descriptions that require special consideration (e.g. race, creed, social status, medical history, criminal records or the fact that a person has been damaged by an offense) will be prohibited to collect without consent in principle. It will be excluded from the exception of providing personal data to third parties without consent.



### **3. Establishing regulations to reinforce protection of personal information (cont.)**

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#### **(2) Obligation to confirm and record the provision of personal information to a third party**

- (a) When a business operator handling personal information receives "a personal information database, etc.", it must confirm how the provider acquired the database and must record the date of provision and what it has confirmed. The record shall be retained for a certain period.
- (b) When a business operator handling personal information provides "a personal information database, etc." to a third party, it must record the date and information of the party to which personal information was provided, such as name, etc. The record shall be retained for a certain period.

### 3. Establishing regulations to reinforce protection of personal information (cont.)

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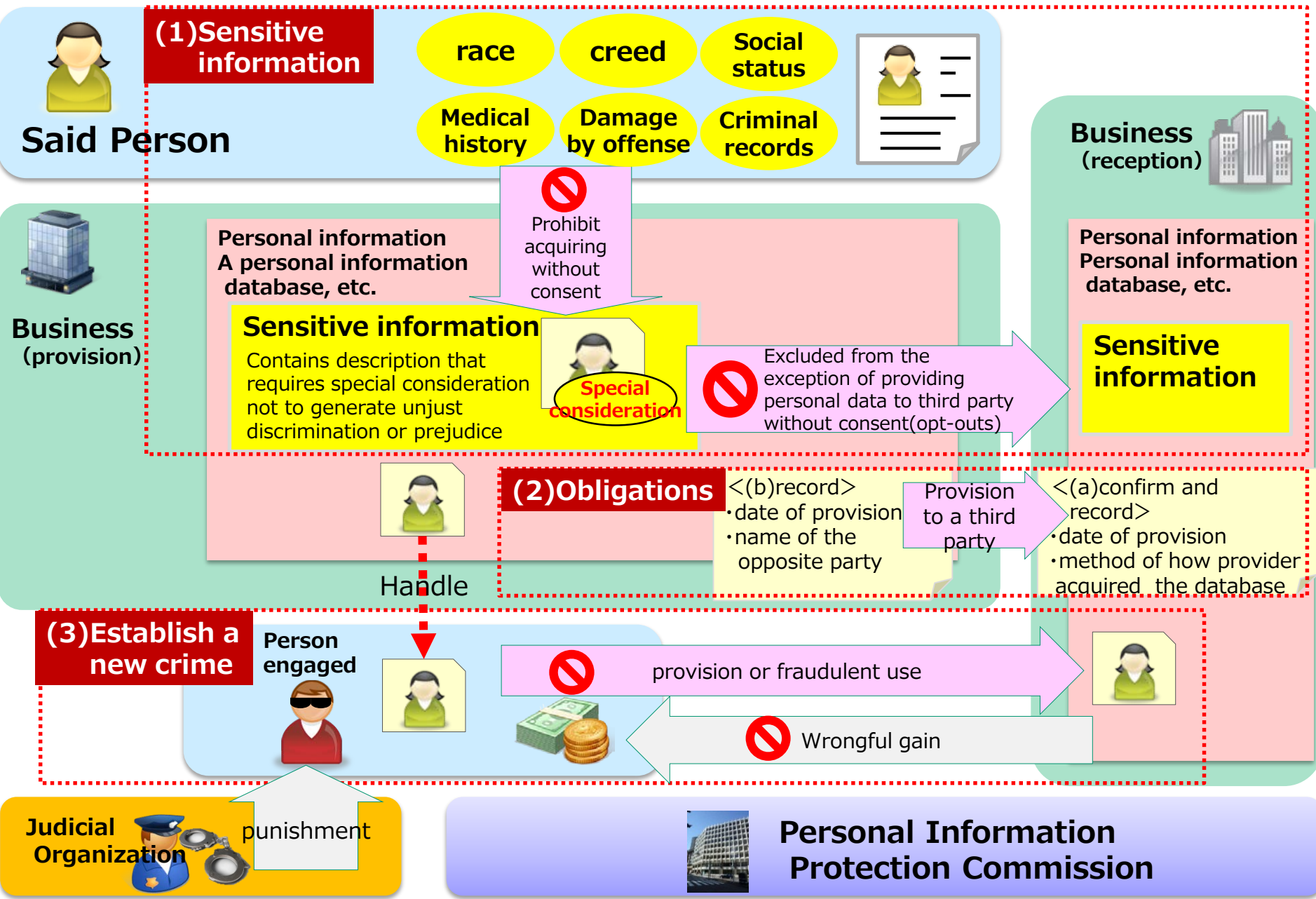
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#### **(3) New establishment of a crime about providing "a personal information database, etc." for the purpose of obtaining a wrongful gain**

A person being or having been engaged in other business handling "a personal information database, etc.", who provides or fraudulently uses the database for the purpose of obtaining a wrongful gain will be punished.

# 3. Establishing regulations to reinforce protection of personal information (cont.)

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### 3. Establishing regulations to reinforce protection of personal information (cont.)

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#### (4) Participation of the Commission in the provision of personal data to a third party without consent (revision of the regulations concerning "Opt-out")

When a business operator handling personal information intend to provide personal data to a third party without consent of the person, it must notify the Commission that it is doing so, and notify the person of the matters listed below or put those matters in a easily accessible condition.

- (a) The fact that the provision to a third party is the purpose of utilization
- (b) The items of the personal data to be provided to a third party
- (c) The method of provision to a third party
- (d) The fact that the provision of such personal data that will lead to the identification of the person to a third party will be discontinued at the request of the said person
- (e) The method to receive the request on (d)

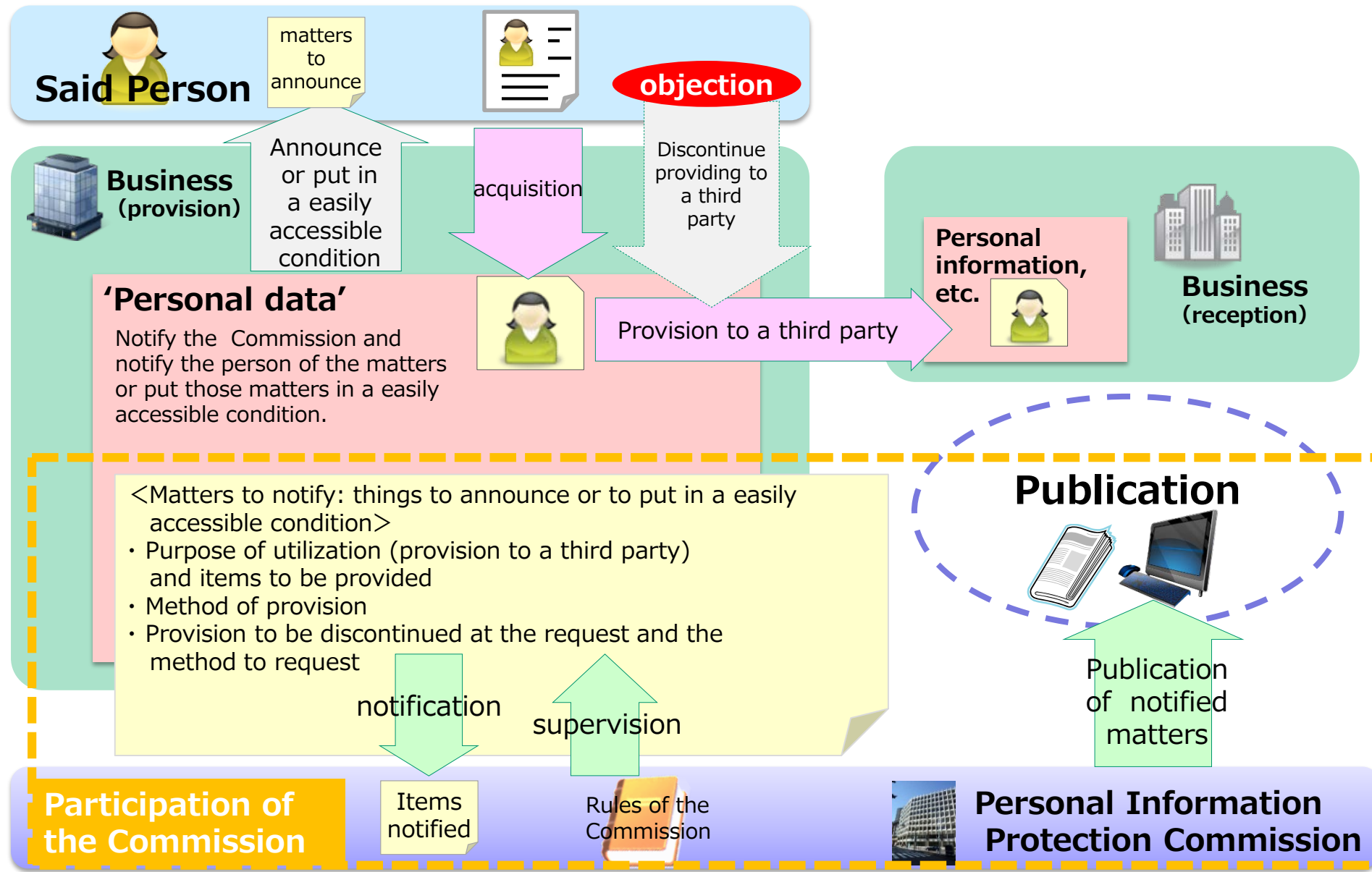
The Commission will publish what was notified by a business operator.

※ If the notification or ready-accessible condition is not appropriate, then the Commission will give a Recommendation or an Order.

# 3. Establishing regulations to reinforce protection of personal information (cont.)

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## (4) Providing personal data without consent



### **3. Establishing regulations to reinforce protection of personal information (cont.)**

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#### **(5) Dealing with businesses that handle personal information on a small scale**

We will delete the exemption regulation pertaining to business operator handling personal information (This exemption is applied to businesses handling 5,000 or less personal information).

#### **(6) Addition of a duty to strive to delete 'personal data' by a business operator handling personal information**

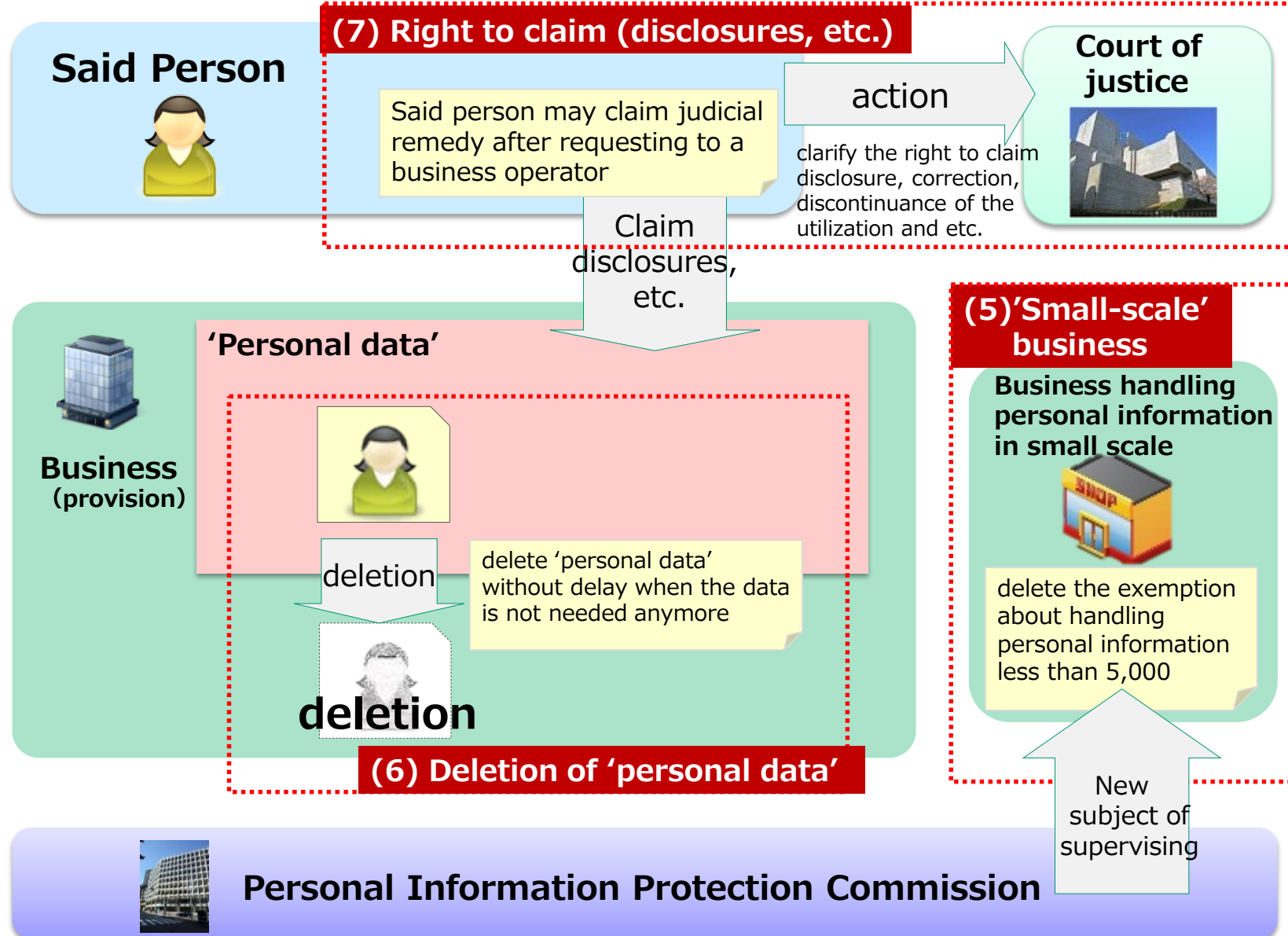
A business operator handling personal information shall endeavor to delete 'personal data' without delay when the data is no longer needed.

#### **(7) Clarifying the right to claim (disclosure, etc.)**

- (a) We will clarify the right to claim disclosure, correction, discontinuance of the utilization and etc. against a business operator handling personal information, for the said person of the personal information.
- (b) The said person must request to a business operator handling personal information before filing an action to make a claim.

### 3. Establishing regulations to reinforce protection of personal information (cont.)

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## **4. New establishment of Personal Information Protection Commission and regulations about its authority**

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### **(1) Major authorities of the Commission**

- (a) We will establish the Commission as an external organization under the Cabinet Office which takes charge of the affairs such as supervision, etc. about the handling of personal information and De-Identified information (by reorganizing the Specific Personal Information Protection Commission which is a supervising body under the Number Use Act ).
- (b) We will give the same authority to the Commission as those of current competent ministers, such as Collection of Reports, Order, Authorization of "authorized personal information protection organization". In addition to that, the Commission will have an authority for the On-site Inspection.
- (c) The Commission may delegate the authority of Report Collection and On-site Inspection to the minister having jurisdiction over the business.



## **4. New establishment of Personal Information Protection Commission and regulations about its authority (cont.)**

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### **(2) Participation of the Commission in preparing personal information protection guidelines**

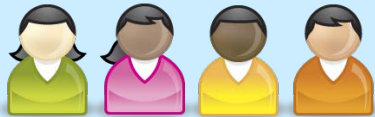
When an authorized personal information protection organization prepares personal information protection guidelines, it shall endeavor to hear the opinions of those who represent the opinions of consumers and must notify the Commission about preparing the guideline. The Commission may order the organization to change the personal information protection guidelines. And also, the Commission will publish those personal information protection guidelines prepared by authorized personal information protection organizations.

# 4. New establishment of Personal Information Protection Commission and regulations about its authority (cont.)

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## (2) Authorized personal information protection organization

Person who represents the opinions of consumers



Authorized personal information protection organization

opinion



Business

personal information protection guidelines

guideline

Participation / compliance

personal information protection guidelines



hear the opinions of person who represents the opinions of consumers

## (1) Authorities

(b)

- Report Collection
- On-site Inspection
- Guidance and advise
- Recommendation
- Order

- Report Collection
- On-site Inspection



Minister having jurisdiction over the business

(c)

delegate

(b)

- Authorization and rescission
- Report collection
- Order

Notification of guidelines

publication



Publication of notified matters

**Personal Information Protection Commission**

(a) external organization under the Cabinet Office  
(reorganizing Specific Personal Information Protection Commission )



personal information protection guidelines

## **5. Preparing regulations to deal with globalization of handling personal information**

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### **(1) Maintaining regulations about the scope of application concerning the handling of personal information across borders**

As for the provision of goods or services to a person in Japan, even if a business operator handling personal information handles personal information outside Japan, the Law will still be applied, except the part that the Commission gives an order.

### **(2) Preparing regulations about providing information to foreign enforcement authorities**

The Commission may provide information to foreign authorities that enforce the law equivalent to that of Japan, when the information helps the foreign authorities execute their duties.

## 5. Preparing regulations to deal with globalization of handling personal information (cont.)

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### (3) Regulations about transferring 'personal data' to a third party in a foreign state

To transfer 'personal data' to a third party in a foreign state, a business operator handling personal information has to obtain consent from a person to do so, or have to comply with either of the following requirements;

- (a) To provide data to a third party in foreign states that the Commission has stipulated to have measures of protecting personal information equivalent to that of Japan.
- (b) To provide data to a third party that has established a system<sup>※</sup> which meets the Rules of the Commission to implement necessary measures continuously. These measures, prescribed by the Law, have to be equivalent to those of a business operator handling personal information.

( This is to clarify the appropriate transfer procedure that businesses are taking now is legal. )

※ 'a system' means, for example, ensuring Security Control Measures which are stipulated in the Current Law, by means of contracts, businesses' internal rules and international frameworks such as APEC CBPRs.

# 5. Preparing regulations to deal with globalization of handling personal information (cont.)

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