

This is a draft bill titled "The Digital Personal Data Protection Bill, 2022". It aims to provide a framework for the processing of digital personal data in India while recognizing the right of individuals to protect their personal data and the need to process personal data for lawful purposes.

Chapter 1: PRELIMINARY

This chapter covers the short title, commencement, definitions, interpretation, and application of the Act.

Section 1: Provides the short title of the Act as the "Digital Personal Data Protection Act, 2022" and empowers the Central Government to appoint different dates for the commencement of different provisions of the Act.

Section 2: Defines various terms used in the Act, such as "automated," "Board," "child," "data," "Data Fiduciary," "Data Principal," "Data Processor," "Data Protection Officer," "gain," "harm," "loss," "person," "personal data," "personal data breach," "prescribed," "processing," "proceeding," and "public interest."

Section 3: Provides guidelines for the interpretation of certain phrases and pronouns used in the Act.

Section 4: Outlines the application of the Act, including its applicability to the processing of digital personal data within and outside the territory of India, subject to certain exceptions.

Chapter 2: OBLIGATIONS OF DATA FIDUCIARY

This chapter outlines the obligations of Data Fiduciaries, entities that determine the purpose and means of processing personal data.

Section 5: Specifies the grounds for processing digital personal data, which require consent from the Data Principal or situations where consent is deemed to have been given.

Section 6: Requires Data Fiduciaries to provide an itemized notice to Data Principals containing a description of the personal data being collected and the purpose of processing.

Section 7: Defines consent and outlines the requirements for obtaining valid consent from Data Principals. It also addresses the withdrawal of consent and the role of Consent Managers.

Section 8: Lists situations where consent is deemed to have been given by the Data Principal for processing personal data.

Section 9: Outlines the general obligations of Data Fiduciaries, including ensuring the accuracy and completeness of personal data, implementing appropriate technical and organizational measures, protecting personal data, notifying personal data breaches, and ceasing to retain personal data when no longer necessary.

Section 10: Imposes additional obligations on Data Fiduciaries when processing personal data of children, such as obtaining verifiable parental consent, prohibiting processing that may cause harm to children, and prohibiting tracking or behavioral monitoring of children.

Section 11: Introduces the concept of "Significant Data Fiduciaries," which the Central Government may notify based on factors such as the volume and sensitivity of personal data processed, potential impact on India's sovereignty and integrity, and public order. Significant Data Fiduciaries are required to appoint a

Data Protection Officer, an Independent Data Auditor, and undertake additional measures like Data Protection Impact Assessments.

Chapter 3: RIGHTS & DUTIES OF DATA PRINCIPAL

This chapter outlines the rights and duties of Data Principals, individuals to whom the personal data relates.

Section 12: Grants Data Principals the right to obtain information about their personal data being processed by Data Fiduciaries, including confirmation of processing, a summary of the personal data and processing activities, and the identities of Data Fiduciaries with whom the data has been shared.

Section 13: Provides Data Principals with the right to request correction and erasure of their personal data by Data Fiduciaries.

Section 14: Grants Data Principals the right to register grievances with Data Fiduciaries and, if unsatisfied, to file a complaint with the Data Protection Board of India.

Section 15: Allows Data Principals to nominate another individual to exercise their rights in the event of their death or incapacity.

Section 16: Outlines the duties of Data Principals, such as complying with applicable laws, not registering false or frivolous grievances, and providing authentic information when exercising their rights.

Chapter 4: SPECIAL PROVISIONS

This chapter covers provisions related to the transfer of personal data outside India and exemptions from certain provisions of the Act.

Section 17: Empowers the Central Government to notify countries or territories outside India to which Data Fiduciaries may transfer personal data, subject to specified terms and conditions.

Section 18: Outlines exemptions from certain provisions of the Act, such as for processing personal data necessary for enforcing legal rights, judicial or quasi-judicial functions, prevention and detection of offenses, and processing personal data of individuals outside India pursuant to contracts. It also allows the Central Government to exempt certain processing activities by the State or for research, archiving, or statistical purposes.

Chapter 5: COMPLIANCE FRAMEWORK

This chapter establishes the Data Protection Board of India and outlines its functions, powers, and the process for ensuring compliance with the Act.

Section 19: Establishes the Data Protection Board of India and outlines provisions related to its composition, appointment of members, and legal status.

Section 20: Specifies the functions of the Board, including determining non-compliance with the Act, imposing penalties, and performing functions assigned by the Central Government.

Section 21: Outlines the process to be followed by the Board to ensure compliance with the Act, including conducting inquiries, issuing orders, and enforcing its orders as if they were decrees of a Civil Court.

Section 22: Provides for the review and appeal process against orders of the Board, including the Board's power to review its own orders and the right to appeal to the High Court.

Section 23: Allows the Board to direct parties to attempt resolution through mediation or other dispute resolution processes if it deems appropriate.

Section 24: Empowers the Board to accept voluntary undertakings from persons related to compliance with the Act and specifies the legal implications of such undertakings.

Section 25: Authorizes the Board to impose financial penalties up to Rs. 500 crore in cases of significant non-compliance, after considering various factors outlined in the section.

Chapter 6: MISCELLANEOUS

This chapter covers miscellaneous provisions, including the power to make rules, amend schedules, remove difficulties, and address consistency with other laws.

Section 26: Grants the Central Government the power to make rules to carry out the provisions of the Act, subject to parliamentary approval.

Section 27: Empowers the Central Government to amend Schedule 1 (related to financial penalties) through notification, subject to certain limitations and parliamentary approval.

Section 28: Allows the Central Government to remove difficulties in giving effect to the provisions of the Act during the first five years after commencement, through orders published in the Official Gazette.

Section 29: Addresses the consistency of the Act with other laws, specifying that the provisions of the Act shall prevail in case of any conflict.

Section 30: Outlines amendments to the Information Technology Act, 2000, and the Right to Information Act, 2005, to align them with the provisions of the Digital Personal Data Protection Act, 2022.

Schedule 1: Specifies the financial penalties that the Board can impose for various types of non-compliance under Section 25, ranging from Rs. 10,000 to Rs. 250 crore.