

DECODING THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023 (D.P.D.P. ACT, 2023)

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Key players under the Act

- 1.Data Principal:** Data Principal means an individual to whom the personal data relates.
- 2.Data Fiduciary:** Data Fiduciary means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data.
- 3.Data Processor:** Data Processor means any person who processes personal data on behalf of Data Fiduciary.



Definition of Personal Data

‘Personal Data’ means any data about an individual who is identifiable either by such data or in relation to such data, including but not limited to KYC documents, personal details etc.

Imp Note: This Act shall apply to the Personal Data collected in Digital Form and data collected physically processed in Digital form.



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NOTICE TO BE GIVEN BY DATA FIDUCIARY TO DATA PRINCIPAL

The Act mandates sending of Notice by Data Fiduciary to Data Principal for the purpose of informing her regarding:-

- A. The personal data and the purpose for which the same is proposed to be processed;
- B. The rights of the Data Principal to withdraw her consent anytime, with the ease of doing so being comparable to the ease with which such consent was given.
- C. The available grievance redressal mechanism available for the Data Principal against Data Fiduciary in respect to any act or omissions by the Data Fiduciary in contravention to the Act
- D. The manner in which the Data Principal may make a complaint to the Board, in such manner and as may be prescribed.

RIGHTS OF DATA PRINCIPAL

- Right to access information about personal data.
- Right to correction and erasure of personal data.
- Right of grievance redressal.
- Right to nominate.



DATA PROTECTION BOARD AND ITS POWERS & FUNCTIONS

The Central Government may by notification for the purpose of this Act, appoint a Board which shall be known as the Data Protection Board.

POWERS OF THE BOARD

On receipt of an intimation of personal data breach, to direct any urgent remedial or mitigation measures in the event of a personal data breach, and to inquire into such personal data breach and impose penalty as provided in this Act.

FUNCTIONS OF THE BOARD

The Board may, for the effective discharge of its functions, by recording reasons in writing, can issue such directions as it may consider necessary to such person, who shall be bound to comply with the same.

APPELLATE JURISDICTION OF “THE TELECOM DISPUTES SETTLEMENT AND APPELLATE TRIBUNAL”

- Any person aggrieved by an order or direction made by the Board under this Act may prefer an Appeal before the Appellate Tribunal i.e. Telecom Disputes Settlement and Appellate Tribunal.
- The TDSAT will work as a Digital office for the purpose of presentment of the Appeal, hearing and pronouncement of the Judgement.
- **Time Period:** Every Appeal shall be filed within a period of sixty days from the date of receipt of the order or direction appealed against. The Appellate Tribunal may entertain an appeal after the expiry of the period, if it is satisfied that there was sufficient cause for not preferring the appeal within that period.



PENALTIES UNDER THE ACT

- If the Board determines that there is a breach of the provisions of this Act or the rules made thereunder by a person is significant, it may, after giving the person an opportunity of being heard, impose a monetary penalty between Rs.10,000/- to Rs. 250,00,00,000/-.
- The quantum of the monetary penalty depends upon grounds such as the nature, gravity and duration of the breach, the type and nature of the personal data affected by the breach, repetitive nature of the breach, whether the person, as a result of the breach, has realised a gain or avoided any loss, any mitigatory step adopted by the person, impact of imposition of the monetary penalty on the person etc.



ISSUES SOLVED BY THE DPDP ACT

- Remote control of the data remains with the Data Principal.
- Safeguard to right to Privacy of the citizens of BHARAT.
- Safeguard of confidential Data of the citizens of BHARAT.
- Prevents frauds and cyber crimes.
- Restriction on the Data usage to the purpose for which it is collected.



Comparison between Indian DPDPA and EU's GDPR

Principle	DPDP	GDPR
Types of Data Protected	The GDPR applies to “processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing systems.”	The DPDPA applies to digital personal data. Personal data under the act refers to data about an individual who is identifiable either by such data or in relation to such data.
Data Processing	Processing of EU Personal data may only be undertaken if the controller has a lawful basis for processing under the GDPR.	The term <i>“processing”</i> has <i>wide</i> important under the Act. It extends to all automated operations (whether wholly or in part) performed on digital personal data.
Cross Border Transfer of Personal data	Requires data fiduciaries to ensure that any transfer of personal data outside India is subject to adequate safeguards, such as standard contractual clauses, binding corporate rules, or other mechanisms approved by the Government of India. The DPDP Act also requires data fiduciaries to obtain explicit consent from data principals before transferring their sensitive personal data outside India.	Prohibits the transfer of personal data outside the EU unless the recipient country ensures an adequate level of protection for personal data, or appropriate safeguards are in place, such as standard contractual clauses, binding corporate rules, or other mechanisms approved by the European Commission. The GDPR also prescribes rights for data subjects to obtain a copy of their personal data being transferred outside the EU.

THANK YOU!



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