



ADVISORY
DATA PROTECTION & PRIVACY
ADVISORY

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I. INTRODUCTION

In today's globalised economy, data has become the new currency, and protecting it is paramount. Companies operating within Indian and European jurisdictions will now need to comply with the Digital Personal Data Protection Act, 2023 ("**Act**") and the General Data Protection Regulation ("**GDPR**"). These laws mandate structured data protection rules for companies collecting visitor data via digital mediums.

The GDPR's scope extends across all of Europe and applies to companies processing data of European individuals and data collected and processed in Europe. The Act on the other hand defines stringent data protection laws to safeguard Indian data. With these International and Indian data protection benchmarks, it becomes crucial for companies to outline data processing, storage, and security mechanisms through a Privacy Policy.

II. DATA AND ITS TYPES

Data constitutes an individual's exclusive information, over which they hold absolute rights. These individuals provide the data when they visit various online portals.

The data can be segregated into 3(three) distinct categories, these are: -

1. **PI (Personal Information)**

Data which helps in identifying a person, such as name, address, IP address, mobile number etc.

2. **PD (Pseudonymised Data)**

Pseudonymised Data is Personal Information that's been altered by giving an anonymous tag to it. (Ex: student number, IP address, membership number, etc).

3. **SPDI (Sensitive Personal Data or Information)**

This is the data which is more sensitive and requires higher degree of protection. (Ex: Passwords, Bank Accounts, Debt/Credit Card Details, Health Records, Biometrics, CV Details, etc).

III. WHY IS PRIVACY POLICY IMPORTANT?

In relation to data protection laws (Both the GDPR and the Act), it's crucial to adhere to their provisions concerning the storage and processing of individual's data.

When a visitor accesses an online portal or website and shares their data, it becomes the responsibility of the owner of such portal or the website, as the case maybe, to securely store, process and take consent for storage as well as processing using best practices. To achieve this, a **well-structured** plan is necessary to outline how data will be collected and processed, which can be effectively accomplished through a carefully drafted Privacy Policy.

Having a Privacy Policy for your entity is even more essential following the provisions of the Act, as the consequences of non-compliance can lead to substantial penalties.

With the Act's implementation, India has introduced *Data Protection Board of India (DPB)*, a regulator responsible for protecting data and aiding data owners, like *European Data Protection Board (EPB)* which is governed by GDPR. The DPB possesses the authority to impose penalty on any of the violations mentioned in the Act.

The penalties can be understood better through the following explanation: -

#	Type of Breach	Penalty Imposed
1.	Failure to safeguard data which is under company's control	INR 2.5 Billion (USD 30 million)
2.	Failure to notify DPB in situation of data breaches.	INR 2 Billion (USD 24 million)
3.	Processing of personal data of children without guardian's consent.	INR 2 Billion (USD 24 million)
4.	Violations of any provision within the Act.	INR 0.5 Billion (USD 6 million)

IV. PARTICULARS OF A PRIVACY POLICY

1. Consent Process: Privacy Policy needs to explain about the purpose of data collection for which an entity will require to secure explicit consent from individuals to ensure transparency.

2. Data Collection: Outlining methods through which the data will be collected, by mentioning respective mediums of data collection within the online portals.
3. Storage & Security: The Privacy Policy must outline data storage practice and its security mechanism, it should be at par with the best practises in industry.
4. Individual Rights: Educating users about their data rights, including access, deletion, nomination, erasure with a clear process for obtaining requests.
5. Data Protection Officer (DPO) Role: Mandatory appointment of DPO and defining his responsibilities in ensuring compliance and addressing data concerns.

V. HOW CAN OCTAGONA INDIA HELP?

Octagona India offers services, covering the drafting, reviewing, and vetting of your Privacy Policy to ensure it is aligned with the forthcoming amendments of relevant data protection laws. We will assist you in establishing a well-defined mechanism for the storage and security of data, ensuring it standards with industry's best practices. Our expertise includes addressing every nuance of policy and data regulation compliance requirements.

Our services will assist you in being complaint with the applicable data protection rules & regulations and assist in avoiding hefty penalties prescribed under the Act and GDPR.



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