



JANUARY 2025

ADVISORY

DIGITAL PERSONAL DATA PROTECTION ACT, 2023

I. INTRODUCTION

The Digital Personal Data Protection Act, 2023 ("Act") is a landmark legislation aimed at protecting the privacy of individuals while enabling businesses to process personal data for lawful purposes. The Act establishes a framework for regulating the collection, storage, and processing of digital personal data. It seeks to balance the rights of individuals, to whom the personal data relates ("Data Principals"), with the legitimate needs of organizations ("Data Fiduciaries") to use data.

In an era where data drives innovation and economic growth, the Act ensures that data processing aligns with legal and ethical standards. This advisory highlights the key provisions, compliance requirements, and roles of stakeholders under the Act.

II. OBLIGATIONS OF DATA FIDUCIARIES

1. Lawful Processing: Data can only be processed for lawful purposes for which the Data Principals has given his/her consent or for certain legitimate uses.
2. Notice: The request made to a Data Principals for consent shall be accompanied by a notice given by the Data Fiduciaries to the Data Principals, stating:
 - a. the personal data and the purpose for which it is proposed to be processed;
 - b. the manner in which the Data Principals may exercise their rights;
 - c. the manner in which the Data Principals may make a complaint to the Board.
3. Protection: Data Fiduciaries must implement organizational measures to prevent breaches.
4. Retention of data: Personal data must be erased once it is no longer needed unless a law requires longer retention.

III. RIGHTS OF DATA PRINCIPALS

1. Access to Information: Data Principals can request details on how their data is processed and shared. In such a case, Data Fiduciaries must disclose the personal data being processed and third parties with whom data has been shared.

2. Correction and Erasure: Data Principles have the right to do the following:

- a. Correction of inaccurate data;
- b. Deletion of data no longer required for its original purpose;
- c. Update the data.

3. Grievance Redressal: Data Fiduciaries must provide a clear mechanism to address complaints within a prescribed timeframe. Data Principles must exhaust this process of redressal before approaching the Board.

IV. PENALTIES FOR NON-COMPLIANCE

Non-compliance may result in financial penalties, as stated below:

Sr. No.	Type of Breach	Penalty Imposed (in INR)
1.	Breach in taking reasonable security safeguards to prevent Personal data breaches	Up to 250 crore
2.	Failure to notify breaches	Up to 200 crore
3.	Violation of children's data obligations	Up to 200 crore
4.	Breach in observance of additional obligations of Significant Data Fiduciaries	Up to 150 crore
5.	Breach in observance of the duties of Data Principles	Up to 10000
6.	General violations	Up to 50 crore

V. DATA PROTECTION BOARD OF INDIA ("the Board")

1. Functions: The Board is responsible for overseeing compliance, investigating breaches and complaints, providing remedial measures and imposing penalties. Such as:

- a. Inquire into complaints, breaches or violations;
- b. Issue directions to Data Fiduciaries;
- c. Conduct hearings digitally.

2. Powers: The Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908:
 - a. Summon individuals, enforce attendance, and inspect data;
 - b. Impose interim measures or penalties during inquiries.

VI. 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.

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