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DataGuidance

India's Digital Personal Data Protection Act, 2023 (DPDPA)

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August 11, 2023, and will come into force on a date as notified by the Government.

Scope and applicability

Applies to the processing of digital personal data in India. DPDPA also applies to processing outside India if the processing relates to any activity related to offering of goods/services to data principals within India.

Exclusions:

- Non-digital data, which is not digitized subsequently
- Personal data processed for domestic use
- Data made publicly available

Key definitions

- **Data Principal:** The individual that personal data relates to, including the lawful guardian of a child or a person with disability.
- **Data Fiduciary:** Any entity, who alone or in conjunction with others, determines the purpose and means of data processing.
- **Significant Data Fiduciary:** Class of Data Fiduciaries that may be notified by the Government based on various factors such as volume and sensitivity of personal data processed, risk posed to Data Principal's rights, and the impact of the processing on India's security. Significant Data Fiduciaries will be subject to enhanced compliance.

Duties of Data Fiduciaries

- Ensure lawful processing based on consent or legitimate uses.
- Implement reasonable security safeguards.
- Appoint a Data Protection Officer (DPO) - for Significant Data Fiduciaries

Rights of Data Principals

- **Access and correction** - Right to know how data is processed, access that data, and seek corrections.
- **Nomination** - In the event of a Data Principal's incapacity or death, they may nominate a representative to exercise their rights.
- **Grievance Redressal** – Right to lodge complaints with the Data Fiduciary, Consent Manager, or Data Protection Board.

Consent and withdrawal

Consent must be specific, informed, and unambiguous

Data Principals retain the right to withdraw consent at any time

Penalties and enforcement

The Data Protection Board is the enforcement authority

Penalties for non-compliance range from INR 10,000 (Approx €112) to INR 250 crore (Approx €28M)