

Advent of Privacy Era in India

The Digital Personal Data Protection Rules, 2025



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Digital Personal Data Protection Act, 2023

Quick recap

Key aspects of the Act



On 11 August, 2023 the President of India gave her assent to the much-awaited Digital Personal Data Protection Act (DPDPA), 2023



Applicability of the Act

- The Act is applicable to processing of digital personal data within the territory of India collected online or collected offline and later digitized.
- Further, applicable to processing outside territory of India, if it involves providing goods or services to the Data Principals within the territory of India.



Key Definitions

- Personal data means any data about an individual who is identifiable by or in relation to such data.
- Data fiduciary means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data.
- Significant data fiduciary means any data fiduciary or class of data fiduciaries as may be notified by the Central Government.

Grounds for processing personal Data

Consent

Consent from a data principal shall be:

- free, specific and informed;
- unconditional and unambiguous with a clear affirmative action

Legitimate uses



Data Principal has voluntarily provided her personal data



Performance of any law or in the interest of sovereignty integrity of India or security



To issue any subsidy, benefit, service, certificate, licence or permit



Compliance with any legal judgement, decree, order



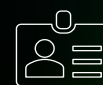
Responding to a medical emergency involving a threat to the life



In case of an epidemic, outbreak of disease, or any other threat to public health



For safety in case of any disaster, or any breakdown of public order



For the purposes of employment or those related to safeguarding the employer from loss or liability

01

Notice

Shall be clear, itemized, in simple language and should include-

- Purpose of processing
 - Manner for accessing rights
 - Manner to make a complaint to the Board
- Notice to be provided in English or have an option for any language specified in the Eighth Schedule of the Indian Constitution.

02

Children's data

- The data fiduciary shall obtain verifiable parental consent before processing any personal data related to children
- Behavioural monitoring of children or targeted advertising directed at children is prohibited

03

Data Principal rights

- | | |
|---------------------------------|-------------------------------|
| Rights to access | Rights of grievance redressal |
| Right to correction and erasure | Right to nominate |

04

Transfer of personal data outside India

The Central Government to notify such countries or territories outside India to which a Data Fiduciary may not transfer personal data. Exemptions are available such as legal right or claim, processing by court and tribunal, etc.

Penalties of Non-Compliance (examples)

- Non-compliance of the provisions by Data Fiduciaries up to INR250 crore
- Breach in observance of duty of Data Principal up to INR10,000
- Breach in not giving notice of personal breach up to INR200 crore
- Breach in observance of additional obligation in relation to children up to INR200 crores

Digital Personal Data Protection Rules, 2025

Key aspects of the Rules



The DPDP Act was approved by the President on August 11, 2023. The effective implementation of the Act depended on the publication of the Rules by the MeitY. On January 3, 2025, MeitY released the draft DPDP Rules in the Gazette of India, inviting public consultation until February 18, 2025

22 Rules

12 Rules are directly applicable to Data Fiduciaries and mandate their compliance while the remaining 7 focus on the establishment and operation of Data Protection Board. Additionally, 1 is for state and its instrumentalities and 2 other provisions



Further clarification on the notice to be provided to Data Principals



Registration and obligations of Consent Manager



Reasonable Security Safeguards: Technical and organizational measures



Personal Data Retention Timelines as per class of Data Fiduciaries



Timelines for intimation of Personal Data Breach to the Board: 72 hours



Verifiable consent for processing of personal data of child or of person with disability who has lawful guardian



Exemptions from certain obligations for processing personal data of child



Additional Obligations for Significant Data Fiduciaries (E.g. DPIA, audit, etc)

07 Schedules

Four Schedules outline various requirements to guide the Data Fiduciaries in taking appropriate action for achieving compliance, while the remaining three pertain to the operation of the Board



Conditions of Registration of Consent Manager with the Board



Obligations of Consent Manager



Elaborative Technical and Organizational Measures



Classification of data fiduciaries for clarifying data retention periods



Class of data fiduciaries and purposes that are exempted from the conditions of processing children's data

Digital Personal Data Protection Rules, 2025

Key nuances



Below are the key nuances of the rules that every business must understand to ensure compliance and protect personal data of the Data Principals



Notice and Consent

Data Fiduciaries need to assess if their privacy notices and consent banners are in alignment with the DPDP Rules and provide all necessary information to the Data Principals



Verifiable Parental Consent

Data Fiduciaries shall ensure a system is in place to obtain verifiable consent of the parents or legal guardian while processing personal data of children or person with disability



Data Principal Rights

Data Fiduciaries must establish clear procedures, communication channels, and systems to handle Data Principals' rights requests and ensure an effective grievance redressal system



Consent Manager

Data Fiduciaries need to ensure that the Consent Manager being appointed meets the conditions of the Board and follows the obligations set by the Rules



Security Safeguards

The Rules have provided reasonable security safeguards to be implemented by the Data Fiduciaries for protection of personal data and preventing personal data breaches



Personal Data Breach

Data Fiduciaries need to inform affected Data Principals and the Board without delay and provide a detailed report to the Board within 72 hours which includes broad facts, circumstances, remedial measures, findings etc.



Data Retention Timelines

Data Fiduciaries are now required to ascertain a time period on the data erasure of the personal data processed by them depending on the class of Data Fiduciary they fit in as specified by the Rules; specific implications mentioned for ecommerce, gaming, social media companies



Processor Due Diligence

Data Fiduciaries must exercise greater due diligence when outsourcing tasks to third-parties and establish comprehensive data processing agreements with such processors, explicitly outlining the processors' obligations



Significant Data Fiduciary

Significant Data Fiduciaries must conduct Data Protection Impact Assessment, annual audits, ensure algorithmic software protects data rights, and comply with data transfer restrictions outside India

Digital Personal Data Protection Rules, 2025

Still unknowns: Illustrative



Significant Data Fiduciaries

The Rules have not specified the specific of Data Fiduciaries that will be considered as Significant Data Fiduciaries. The Significant Data Fiduciaries will be notified by the Central Government on the basis of an assessment of relevant factors

1

Consent Manager - Internal vs External

The rules do not clarify whether the Data Fiduciaries are permitted to appoint an in-house Consent Manager and if allowed, would that need to be registered with the Board, and whether such an appointment would constitute a conflict of interest. Furthermore, rules do not elaborate if and how organizations can continue using existing consent management mechanisms adopted proactively or for compliance with global data protection regulations

2

Exemptions for children's data processing

The rules outline five categories of Data Fiduciaries and list certain purposes of data processing that are exempt from certain obligations for processing children's data. However, the rules do not specify whether this exemption applies to all other Data Fiduciaries that do not offer child-directed or lucrative* products and services

3

Retrospective consent

The Rules have not provided clarity on what consent obtained prior to commencement of the Act will be acceptable as valid consent i.e. whether implied consent with a fresh notice would suffice, or should it be an explicit valid consent for specific purposes along with a fresh notice

4

Timeline for Data Principal Rights and grievance redressal

The Rules have not prescribed any time-period for Data Fiduciaries to address the rights of Data Principals. Additionally, the Rules have given Data Fiduciaries the option to specify the time period for their grievance redressal system

5

Requirements for Cross Border Data Transfer

The Rules have not specified any list of countries with restriction on transfer of personal data along with instruments to be put in place for such cross-border data transfer. Any such requirements shall be specified by the Central Government by general or special order

6

Journalistic exemption

The Rules do not provide any exemptions for journalists and media organizations in relation to complying with the Act's obligations, particularly in balancing these obligations with the freedom of expression and the right to information in the public interest

7

Exemptions for Start-ups

The Rules do not specify the threshold for volume, nature of personal data and class of Data Fiduciaries including Start-ups who are exempted from specific obligations relating to notice, DPIA, retention timeline and Data Principal Rights as per the Act

8

Restriction on Special Category of Personal Data

The Rules have not specified the categories of personal data and definition of traffic data on which restriction on cross-border data transfer by Significant Data Fiduciaries shall apply

9

Notification of Data Breach to Data Principals

The Rules mention that as part of data breach notification to the Data Protection Board within 72 hrs, details on notification to data principals shall also be provided. However, there is no clarity if it is mandatory to report every data breach to the data principal and whether such intimation needs to be provided to each data principal before it is reported to the Board

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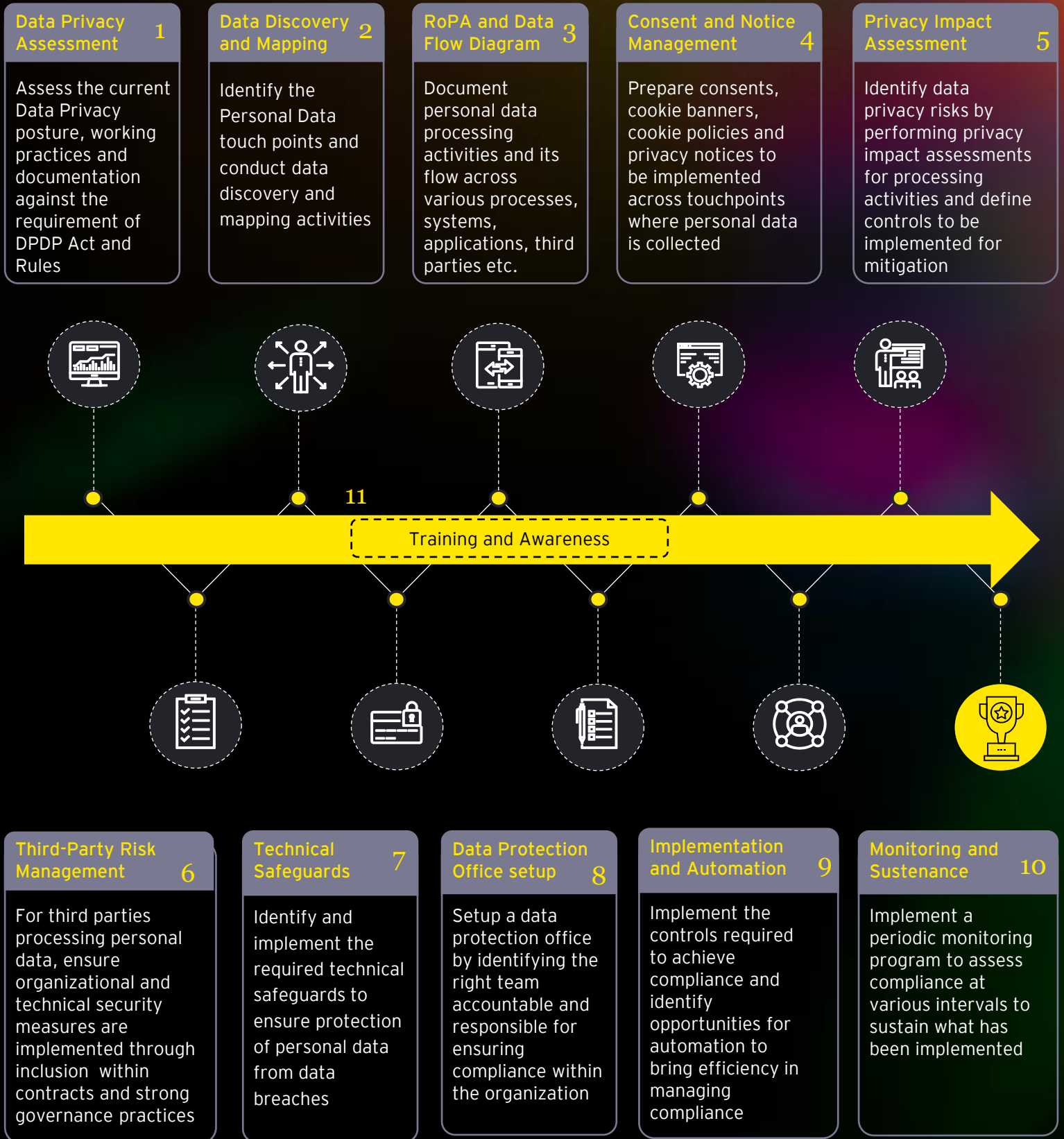
* Child-directed refers to products, services, or content that are specifically designed and marketed for children. Child-lucrative refers to those products or services that, while they might not be explicitly aimed at children, are marketed or sold in a way that generates significant revenue from children's purchasing power or influence

Journey to compliance

Roadmap to ensure compliance to Act and its Rules



Comprehensive transformation strategy and approach reflects the essential aspects of the Act and Rules throughout the organization's data management lifecycle for achieving compliance



EY can help with end-to-end services across every step of the roadmap, as required

Our Offices

Ahmedabad

22nd Floor, B Wing, Privilon
Ambli BRT Road, Behind
Iskcon Temple
Off SG Highway
Ahmedabad - 380 059
Tel: + 91 79 6608
3800

8th Floor, Building No. 14A
Block 14, Zone 1
Brigade International
Financial Centre
GIFT City SEZ
Gandhinagar - 382355,
Gujarat
Tel +91 79 6608 3800

Bengaluru

12th & 13th Floor
"UB City", Canberra Block
No.24 Vittal Mallya Road
Bengaluru - 560 001
Tel: + 91 80 6727
5000

Ground & 1st Floor
11, 'A' wing
Divyasree Chambers
Langford Town
Bengaluru - 560 025
Tel: + 91 80 6727
5000

3rd & 4th Floor
MARKSQUARE
#61, St. Mark's Road
Shantala Nagar
Bengaluru - 560 001
Tel: + 91 80 6727
5000

1st & 8th Floor, Tower A
Prestige Shantiniketan
Mahadevapura Post
Whitefield, Bengaluru - 560
048
Tel: + 91 80 6727
5000

Bhubaneswar

8th Floor, O-Hub, Tower A
Chandaka SEZ,
Bhubaneswar
Odisha - 751024
Tel: + 91 674 274 4490

Chandigarh

Elante offices, Unit No. B-
613 & 614
6th Floor, Plot No- 178-
178A
Industrial & Business
Park, Phase-I
Chandigarh - 160 002
Tel: + 91 172
6717800

Chennai

6th & 7th Floor, A Block,
Tidel Park, No.4, Rajiv
Gandhi Salai
Taramani, Chennai - 600
113
Tel: + 91 44 6654
8100

Delhi NCR

Aikyam
Ground Floor
67, Institutional Area
Sector 44, Gurugram -
122 003
Haryana
Tel: + 91 124 443
4000

3rd & 6th Floor,
Worldmark-1
IGI Airport Hospitality
District
Aerocity, New Delhi - 110
037
Tel: + 91 11 4731
8000

4th & 5th Floor, Plot No
2B
Tower 2, Sector 126
Gautam Budh Nagar, U.P.
Noida - 201 304
Tel: + 91 120 671
7000

Hyderabad

THE SKYVIEW 10
18th Floor, "SOUTH
LOBBY"
Survey No 83/1,
Raidurgam
Hyderabad - 500 032
Tel: + 91 40 6736
2000

Jaipur

9th floor, Jewel of India
Horizon Tower, JLN Marg
Opp Jaipur Stock
Exchange
Jaipur, Rajasthan -
302018

Kochi

9th Floor, ABAD
Nucleus
NH-49, Maradu PO
Kochi - 682 304
Tel: + 91 484
433 4000

Kolkata

22 Camac Street
3rd Floor, Block 'C'
Kolkata - 700 016
Tel: +91 33
6615 3400

6th floor, Sector V,
Building Omega,
Bengal Intelligent
Park, Salt Lake
Electronics Complex,
Bidhan Nagar
Kolkata - 700 091
Tel: +91 33
6615 3400

Mumbai

14th Floor, The Ruby
29 Senapati Bapat
Marg
Dadar (W), Mumbai -
400 028
Tel: + 91 22
6192 0000

5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express
Highway
Goregaon (E)
Mumbai - 400 063
Tel: + 91 22
6192 0000

3rd Floor, Unit No 301
Building No. 1
Mindspace Airoli West
(Gigaplex)
Located at Plot No. IT-
5
MIDC Knowledge
Corridor
Airoli (West)
Navi Mumbai - 400708
Tel: + 91 22 6192
0003

Altimus, 18th Floor
Pandurang Budhkar
Marg
Worli, Mumbai - 400
018
Tel: +91 22 6192
0503

Pune

C-401, 4th Floor
Panchshil Tech Park,
Yerwada
(Near Don Bosco
School)
Pune - 411 006
Tel: + 91 20
4912 6000

10th Floor,
Smartworks
M-Agile, Pan Card Club
Road
Baner, Pune - 411 045
Tel: + 91 20
4912 6800

Contact us

Consulting Services

Murali Rao
Partner and Leader, Cybersecurity
Consulting, EY India
Murali.Rao@in.ey.com

Mini Gupta
National Data Privacy Consulting
Partner, EY India
mini.gupta@in.ey.com

Lalit Kalra
National Data Privacy Consulting
Partner, EY India
lalit.kalra@in.ey.com

Sujay Maskara
Data Privacy Consulting Partner, EY
India
sujay.maskara@in.ey.com

Samir N Shah
Financial Services Data Privacy
Partner, EY India
Samir.Shah@in.ey.com

Mubin E Shaikh
GCC Data Privacy Consulting
Partner, EY India
Mubin.Shaikh@in.ey.com

Regulatory Services

Rajiv Chugh
Partner and National Leader, Policy
Advisory and Specialty Services, EY
India
rajiv.chugh@in.ey.com

Ritika Loganey Gupta
Partner - Policy Advisory &
Speciality Services, EY India
ritika.gupta@in.ey.com

Pankaj Sharma
Partner - Telecom - Regulatory
Services, EY India
pankaj.sharma4@in.ey.com



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