

Privacy Desk

Data Protection and Privacy Newsletter

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Key recommendations

Report by Joint Parliamentary Committee on the PDPB, 2019



Scope of Law Expanded to include Non-Personal Data

The Scope of the law is enlarged so to include regulation of non-personal data including anonymized personal data. The Data Protection Authority (DPA), will be accordingly empowered for handling non-personal data regulations.



Phased Implementation

24 Months may be provided for effective compliance.

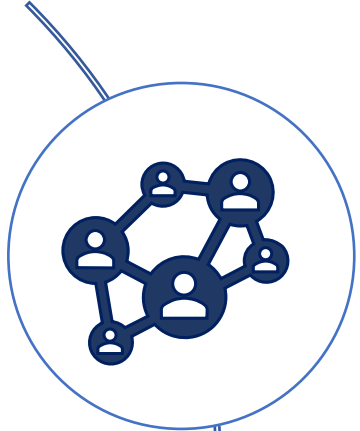


Handling Children's Data

Data Fiduciaries dealing exclusively with children's data, will have to register with the DPA. Three months before a child attains the age of majority, the data fiduciary should inform the child for providing consent again.

Key recommendations

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Obligations of Social Media Intermediary

All social media platforms which do not act as intermediaries should be treated as publishers and be held accountable for the content they host. Additionally, no social media platform should be allowed to operate in India unless the parent company handling the technology sets up office in India.



Rights of a deceased Data Principal

A deceased data principal shall have the following options, namely:

- to nominate a legal heir or legal representative as his nominee;
- to exercise the right to be forgotten;
- to append the terms of agreement.

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Key Aspects of Reporting Personal Data Breach

- Data breach includes personal data breach and non-personal data breach. Accordingly, Breach of non-personal to be reported in accordance with the regulations
- Recommendation to hold data fiduciary accountable for delay in reporting data breaches to data principal.
- Data Fiduciary to issue notice of personal data breach to the DPA, within 72 hours of becoming aware of such breach.
- The DPA, shall after taking into account the personal data breach and the severity of harm that may be caused to the data principal, direct the data fiduciary to report such breach to the data principal and to conspicuously post the details of the personal data breach on its website.



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Transparency In Processing of Personal Data

Every Data Fiduciary shall, where applicable shall make available information in relation to fairness of algorithm or method used for processing of personal data.



Significant Data Fiduciary

Data Fiduciaries processing of data relating to children or providing services to them & any social media platform, with users above such threshold as may be prescribed or whose actions have or are likely to have significant impact on sovereignty and integrity of India, electoral democracy, security of the state or public order are significant data fiduciaries.



Qualifications of Data Protection Officer

Every significant data fiduciary shall appoint a data protection officer, who shall be a senior officer in the state, or key managerial personnel in relation to the company or such other employee of equivalent capacity in case of other entities as the case may be.

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Privacy Centric Indigenous Payment Network

The committee are of the view that an alternative financial payment system should be developed on the lines of SWIFT international payment network.



Regulation of IT device manufacturers

Committee recommends empowering DPA to regulate manufacturers that collect data through IoT and other similar devices. Appropriate privacy certification process for all digital and IoT devices that will ensure the integrity of all such devices with respect to data privacy and protection.

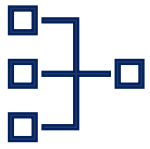


Regulation of AI technology to ensure privacy

Emerging technologies, that have the potential to train AI systems through the use of personal data of individuals, should be certified in a manner that ensures their compliance with the provisions of the Act.

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Data Localization

Central Government, in consultation with all the sectoral regulators, must prepare and pronounce an extensive policy on data localization, and ensure that a mirror copy of the sensitive and critical personal data which is already in possession of the foreign entities be mandatorily brought to India.



NGOs as data fiduciaries and data processors

Non-Governmental Organizations also play a significant role in terms of collection of data for various purposes. NGO's to be treated as data fiduciaries / data processors and to come under the purview of the Act.



Definition of Harm expanded

Psychological manipulation which impairs the autonomy of the individual to be treated as harm suffered by data principal.

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Data Portability

Trade Secret to no longer to be a ground to deny request for data portability by data principal.



Denial of transfer of sensitive personal data and critical personal data

The Authority while approving a contract or intra group scheme which allows the cross-border transfer of data, to consult the Central Government. Such intra-group scheme or contract may not be approved if the object of such transfer is against public policy or State policy.



Statutory body for Media Regulation

To regulate processing of personal data for journalistic purpose statutory body for media regulation recommended.

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Penalty Provision

Earlier provision of fine of up to 5 crore rupees or two percent of worldwide turnover of the preceding financial year suggested to be removed. New quantification of penalty will be specified by way regulations.



Single Window for filing complaint to the Authority

Data principal have right to file a complaint to the authority within such period and in such manner to be specified by regulations. Recommendation to devise a single window system to deal with complaints.

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