

	THE DIGITAL PERSONAL DATA PROTECTION BILL, 2023	
	A BILL	
	<i>to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes, and for matters connected therewith or incidental thereto.</i>	
	CHAPTER I PRELIMINARY	
	1. (1) This Act may be called the Digital Personal Data Protection Act, 2023.	Short title and commencement.
	(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the commencement of that provision.	
	2. In this Act, unless the context otherwise requires,—	Definitions.
	(a) “automated” means any digital process capable of operating automatically in response to instructions given or otherwise for the purpose of processing data;	
	(b) “Board” means the Data Protection Board of India established by the Central Government under section 19;	

	(c) “child” means an individual who has not completed the age of eighteen years or such lower age as the Central Government may notify;	
	(d) “data” means a representation of information, facts, concepts, opinions or instructions in a manner suitable for communication, interpretation or processing by humans or by automated means;	
	(e) “Data Fiduciary” means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data;	
	(f) “Data Principal” means the individual to whom the personal data relates, and where such individual is—	
	(i) a child, includes the parents or lawful guardian of such a child; and	
	(ii) a person with disability, includes their lawful guardian, acting on behalf of such individual;	
	(g) “Data Processor” means any person who processes personal data on behalf of a Data Fiduciary;	
	(h) “Data Protection Officer” means an individual appointed as such under clause (a) of sub-section (2) of section 11;	
	(i) “digital personal data” means personal data in digital form;	
	(j) “gain” means—	

	(i) a gain in property or a supply of services, whether temporary or permanent; or	
	(ii) an opportunity to earn remuneration or greater remuneration, or to gain a financial advantage otherwise than by way of remuneration;	
	(k) “loss” means—	
	(i) a loss in property or interruption in supply of services, whether temporary or permanent; or	
	(ii) a loss of opportunity to earn remuneration or greater remuneration, or to gain a financial advantage otherwise than by way of remuneration;	
	(l) “notification” means a notification published in the Official Gazette, and the expressions “notify” and “notified” shall be constructed accordingly;	
	(m) “person” includes—	
	(i) an individual;	
	(ii) a Hindu Undivided Family;	
	(iii) a company;	
	(iv) a firm;	
	(v) an association of persons or a body of individuals, whether incorporated or not;	
	(vi) the State; and	

	(vii) every artificial juristic person, not falling within any of the preceding sub-clauses;	
	(n) “personal data” means any data about an individual who is identifiable by or in relation to such data;	
	(o) “personal data breach” means any unauthorised processing of personal data or accidental disclosure, acquisition, sharing, use, alteration, destruction of or loss of access to personal data, that compromises the confidentiality, integrity or availability of personal data;	
	(p) “prescribed” means prescribed by rules made under the provisions of this Act;	
	(q) “processing” in relation to personal data means a wholly or partly automated operation or set of operations performed on digital personal data, and may include operations such as collection, recording, organisation, structuring, storage, adaptation, retrieval, use, alignment or combination, indexing, sharing, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction; and	
	(r) “proceeding” means any action taken by the Board under the provisions of this Act.	
Interpretation.	3. In this Act,—	
	(a) unless the context otherwise requires, a reference to “provisions of this Act” shall be read as including a reference to rules made under this Act;	

	(b) “the option to access ... in English or any language specified in the Eighth Schedule to the Constitution of India” shall mean that the Data Principal may select either English or any one of the languages specified in the Eighth Schedule to the Constitution of India; and	
	(c) the pronouns “her” and “she” have been used for an individual, irrespective of gender.	
	4. (1) The provisions of this Act shall apply to processing—	Application.
	(a) within the territory of India of—	
	(i) personal data collected in digital form; and	
	(ii) personal data collected in non-digital form and digitised subsequently; and	
	(b) of digital personal data outside the territory of India, if such processing is in connection with any activity related to offering of goods or services to Data Principals within the territory of India.	
	(2) The provisions of this Act shall not apply to personal data processed by an individual for any personal or domestic purpose.	
	CHAPTER II OBLIGATIONS OF DATA FIDUCIARY	
	5. A person may process the personal data of a Data Principal only in accordance with the provisions of this Act and for a lawful purpose—	Grounds for processing personal data.
	(a) for which the Data Principal has given her consent; or	

	(b) in respect of which the Data Principal is deemed to have given her consent.	
	<i>Explanation.</i> —For the purposes of this Act, the term “lawful purpose” means any purpose which is not expressly forbidden by law.	
Notice.	6. (1) Every request to a Data Principal for consent shall be accompanied or preceded by an itemised notice given by the Data Fiduciary to the Data Principal, in clear and plain language, containing a description of personal data sought to be collected by the Data Fiduciary and the purpose of processing of such personal data.	
	<i>Illustration</i>	
	<i>X, an individual, opens a bank account using the mobile app or website of Y, a bank. To complete the know-your-customer (KYC) requirements under law for opening of bank account, X opts for processing of her personal data by Y in a live, video-based customer identification process. Y shall accompany or precede the request for the personal data with an itemised notice to X, describing the personal data and the purpose of its processing.</i>	
	(2) Where a Data Principal has given her consent to the processing of her personal data before the commencement of this Act, the Data Fiduciary shall, as soon as it is reasonably practicable, give to the Data Principal an itemised notice in clear and plain language containing a description of personal data of the Data Principal collected by the Data Fiduciary and the purpose for which such personal data has been processed.	
	<i>Explanation.</i> —For the purposes of this section, the term—	

	(a) “notice” can be a separate document, or an electronic form, or a part of the same document in or through which personal data is sought to be collected, or in such other form as may be prescribed; and	
	(b) “itemised” means presented as a list of individual items.	
	<i>Illustration</i>	
	<i>X, an individual, gave her consent to the processing of her personal data for an online shopping app or website operated by Y, an e-commerce entity, before the commencement of this Act. Upon commencement of the Act, Y shall, as soon as practicable, give through email, in-app notification or other effective method an itemised notice to X, describing the personal data and the purpose of its processing.</i>	
	(3) The Data Fiduciary shall give the Data Principal the option to access the information referred to in sub-sections (1) and (2) in English or any language specified in the Eighth Schedule to the Constitution.	
	7. (1) Consent of the Data Principal means any freely given, specific, informed and unambiguous indication of her wishes by which she, by a clear affirmative action, signifies agreement to the processing of her personal data, for the specified purpose and limited to such personal data as is necessary for the specified purpose.	Consent.
	<i>Explanation.</i> —For the purpose of this sub-section, the term “specified purpose” means the purpose mentioned in the notice given by the Data Fiduciary to the Data Principal in accordance with the provisions of this Act.	
	<i>Illustration</i>	

	<p><i>X, an individual, downloads Y, a telemedicine app. Y requests the consent of X for (a) the processing of her personal data for making available telemedicine services, and (b) accessing her mobile phone contact list, and X signifies her consent to both. Since phone contact details are not necessary for making available telemedicine services, her consent shall be limited to the processing of her personal data for making available telemedicine services.</i></p>	
	<p>(2) Any part of consent referred in sub-section (1) which constitutes an infringement of the provisions of this Act or any other law for the time being in force shall be invalid to the extent of such infringement.</p>	
	<p><i>Illustration</i></p>	
	<p><i>X, an individual, buys an insurance policy using the mobile app or website of Y, an insurer. She gives to Y her consent for (a) the processing of her personal data by Y for the purpose of issuing the policy, and (b) waiving her right to file a complaint to the Data Protection Board of India. Part (b) of the consent, relating to waiver of her right to file a complaint, shall be invalid.</i></p>	
	<p>(3) Every request for consent under the provisions of this Act shall be presented to the Data Principal in a clear and plain language, along with the contact details of a Data Protection Officer, where applicable, or of any other person authorised by the Data Fiduciary to respond to any communication from the Data Principal for the purposes of exercise of her rights under the provisions of this Act.</p>	
	<p>(4) Where consent given by the Data Principal is the basis of processing of personal data, she shall have the right to withdraw her consent at any time, with the ease of doing so being comparable to the ease with which such consent was given.</p>	

	<p>(5) The consequences of the withdrawal referred to in sub-section (4) shall be borne by the Data Principal, and such withdrawal shall not affect the lawfulness of processing of the personal data based on consent before its withdrawal.</p>	
	<p><i>Illustration</i></p>	
	<p><i>X, an individual, is the user of an online shopping app or website operated by Y, an e-commerce entity. X consents to the processing of her personal data by Y for the purpose of fulfilling her supply order and places an order for supply of a good while making payment for the same. If X withdraws her consent, Y may stop enabling X to use the app or website for placing orders, but may not stop the processing for supply of the goods already ordered and paid for by X.</i></p>	
	<p>(6) If a Data Principal withdraws her consent to the processing of personal data under sub-section (5), the Data Fiduciary shall, within a reasonable time, cease and cause its Data Processors to cease processing of the personal data of such Data Principal unless such processing without the Data Principal's consent is required or authorised under the provisions of this Act or any other law for the time being in force in India.</p>	
	<p><i>Illustration</i></p>	
	<p><i>X, a telecom service provider, enters into a contract with Y, a Data Processor, for emailing telephone bills to the customers of X. Z, a customer of X, who had earlier given her consent to X for the processing of her personal data for emailing of bills, downloads the mobile app of X and opts to receive bills only on the app. X shall itself cease, and shall cause Y to cease, the processing of the personal data of Z for emailing bills.</i></p>	

	(7) The Data Principal may give, manage, review or withdraw her consent to the Data Fiduciary through a Consent Manager.	
	<i>Explanation.</i> —For the purposes of this section, a “Consent Manager” is a person who enables a Data Principal to give, manage, review and withdraw her consent through an accessible, transparent and interoperable platform.	
	(8) The Consent Manager referred to in subsection (7) shall be an entity that is accountable to and acts on behalf of the Data Principal.	
	(9) Every Consent Manager shall be registered with the Board in such manner and subject to such technical, operational, financial and other conditions as may be prescribed.	
	(10) Where consent of the Data Principal is the basis of processing of personal data and a question arises in this regard in a proceeding, the Data Fiduciary shall be obliged to prove that it gave notice to the Data Principal and received her consent.	
Deemed consent.	8. A Data Principal is deemed to have given consent to processing of her personal data—	
	(a) for the specified purposes for which the Data Principal has voluntarily provided her personal data to the Data Fiduciary, and in respect of which she has not indicated to the Data Fiduciary that she does not consent to the use of her personal data;	
	<i>Illustrations</i>	

	<p><i>(A): X, an individual, makes a purchase at Y, a pharmacy. She voluntarily provides Y her personal data and requests Y to acknowledge receipt of the payment made for the purchase by sending a message to her mobile phone. X shall be deemed to have given her consent to Y for the processing of her personal data for the purpose of sending the receipt.</i></p>	
	<p><i>(B): X, an individual, messages Y, a real estate broker, requesting Y to help identify a suitable rented accommodation for her and shares her personal data for this purpose. X shall be deemed to have given her consent to Y for the processing her personal data for this purpose and Y may process her personal data to identify and inform her the details of accommodation available on rent. Subsequently, X informs Y that X no longer needs help from Y. Y shall cease to process the personal data of X.</i></p>	
	<p>(b) for the performance of any function under any law for the time being in force, or the provision of any service or benefit to the Data Principal, or the issuance of any certificate, licence or permit for any action or activity of the Data Principal, by the State or any instrumentality of the State, subject to standards followed by the State or such instrumentality for related processing being in accordance with the policy issued by the Central Government or any law for the time being in force for governance of such data;</p>	

	<p><i>Explanation.</i>—For the purposes of this clause, the term “State” shall have the meaning assigned to it in article 12 of the Constitution.</p>	
	<p><i>Illustration</i></p>	
	<p><i>X, a pregnant woman, enrolls herself on an app or website to avail of government’s maternity benefits programme, while consenting to provide her personal data for the purpose of availing of such benefits. X shall be deemed to have given her consent to the processing of her personal data for the purpose of determining her eligibility to receive benefits under any other government programme as well.</i></p>	
	<p>(c) for compliance with any judgment or order issued under any law for the time being in force in India, or any judgment or order relating to claims of a contractual or civil nature under any law for the time being in force outside India;</p>	
	<p>(d) for responding to a medical emergency involving a threat to the life or immediate threat to the health of the Data Principal or any other individual;</p>	
	<p>(e) for taking measures to provide medical treatment or health services to any individual during an epidemic, outbreak of disease, or any other threat to public health;</p>	
	<p>(f) for taking measures to ensure safety of, or provide assistance or services to any individual during any disaster, or any breakdown of public order; and</p>	

	(g) for the purposes of employment or those related to safeguarding the employer from loss or liability, such as prevention of corporate espionage, maintenance of confidentiality of trade secrets, intellectual property, classified information, provision of any service or benefit sought by a Data Principal who is an employee.	
	9. (1) A Data Fiduciary shall, irrespective of any agreement to the contrary or failure of a Data Principal to carry out the duties specified in this Act, be responsible for complying with the provisions of this Act in respect of any processing undertaken by it or on its behalf by a Data Processor or another Data Fiduciary.	General obligations of Data Fiduciary.
	(2) A Data Fiduciary may engage, appoint, use or otherwise involve a Data Processor to process personal data on its behalf for any activity related to offering of goods or services to Data Principals only under a valid contract.	
	(3) A Data Fiduciary shall ensure that personal data processed by or on behalf of the Data Fiduciary is complete, accurate and consistent.	
	(4) A Data Fiduciary shall implement appropriate technical and organisational measures to ensure effective observance of the provisions of this Act.	
	(5) A Data Fiduciary shall protect personal data in its possession or under its control, including in respect of any processing undertaken by it or on its behalf by a Data Processor, by taking reasonable security safeguards to prevent personal data breach.	

	(6) In the event of a personal data breach, the Data Fiduciary shall give the Board and each affected Data Principal intimation of such breach in such form and manner as may be prescribed.	
	<i>Explanation.</i> —For the purposes of this subsection, the term “affected Data Principal” means any Data Principal to whom any personal data affected by a personal data breach relates.	
	(7) A Data Fiduciary shall—	
	(a) erase personal data, upon the Data Principal withdrawing her consent or as soon as it is reasonable to assume that the purpose for which such personal data was collected is no longer being served by its retention and retention is no longer necessary for compliance with any law for the time being in force; and	
	(b) cause its Data Processor to erase any personal data that was made available by the Data Fiduciary for processing to such Data Processor, upon completion of such processing.	
	<i>Illustrations</i>	
	<i>(A): X, an individual, registers herself on an online marketplace operated by Y, an e-commerce entity. X gives her consent to Y for the processing of her personal data for selling her used car. The online marketplace helps conclude the sale. Y shall no longer retain her personal data.</i>	

	<p><i>(B): X, an individual, decides to close her savings account with Y, a bank. Y is required by law applicable to banks to maintain the record of the identity of its clients for a period of 10 years beyond closing of accounts. Since retention is necessary for compliance with law, Y shall retain X's personal data for the said period.</i></p>	
	<p>(8) A Data Fiduciary shall publish, in such manner as may be prescribed, the business contact information of a Data Protection Officer, if applicable, or a person who is able to answer on behalf of the Data Fiduciary, the questions, if any, raised by the Data Principal about the processing of her personal data.</p>	
	<p>(9) A Data Fiduciary shall establish an effective mechanism to redress the grievances of Data Principals.</p>	
	<p>10. (1) The Data Fiduciary shall, before processing any personal data of a child, obtain verifiable parental consent in such manner as may be prescribed.</p>	<p>Additional obligations in relation to processing of personal data of children.</p>
	<p><i>Explanation.</i>—For the purposes of this subsection, the term “parental consent” includes the consent of lawful guardian, where applicable.</p>	
	<p>(2) A Data Fiduciary shall not undertake such processing of personal data as is likely to cause harm to a child.</p>	
	<p><i>Explanation.</i>—For the purposes of this subsection, “harm” means any detrimental effect on the well-being of a child.</p>	
	<p>(3) A Data Fiduciary shall not undertake tracking or behavioural monitoring of children or targeted advertising directed at children.</p>	

	(4) The provisions of sub-sections (1) and (3) shall not be applicable to the processing of personal data of a child by such classes of Data Fiduciaries or for such purposes, and subject to such conditions, as may be prescribed.	
	<i>Explanation.</i> —It is hereby clarified that the classes of Data Fiduciaries shall be such as may be specified while prescribing.	
	(5) The Central Government may, if satisfied that a Data Fiduciary has ensured that its processing of personal data of children is done in a manner that is verifiably safe, notify for such processing by such Data Fiduciary the age above which that Data Fiduciary shall be exempt from the applicability of all or such of the obligations under sub-sections (1) and (3) in respect of processing by that Data Fiduciary as the notification may specify.	
Additional obligations of Significant Data Fiduciary.	11. (1) The Central Government may notify any Data Fiduciary or class of Data Fiduciaries as Significant Data Fiduciary, on the basis of an assessment of such relevant factors as it may determine, including—	
	(a) the volume and sensitivity of personal data processed;	
	(b) risk to the rights of Data Principal;	
	(c) potential impact on the sovereignty and integrity of India;	
	(d) risk to electoral democracy;	
	(e) security of the State; and	
	(f) public order.	
	<i>Explanation.</i> —For the purposes of this sub-section, the term “State” shall have the meaning assigned to it in article 12 of the Constitution.	

	(2) The Significant Data Fiduciary shall—	
	(a) appoint a Data Protection Officer who shall represent the Significant Data Fiduciary under the provisions of this Act, be based in India and be responsible to the Board of Directors or similar governing body of the Significant Data Fiduciary, and serve as the point of contact for the grievance redressal mechanism under the provisions of this Act;	
	(b) appoint an independent data auditor who shall evaluate the compliance of the Significant Data Fiduciary with provisions of this Act; and	
	(c) undertake the following measures, namely:—	
	(i) periodic Data Protection Impact Assessment, a process comprising the description, purpose, assessment and management of risk to the rights of Data Principals, and such other matters with respect to processing of personal data as may be prescribed;	
	(ii) periodic audit; and	
	(iii) such other measures in relation to the purposes of this Act as may be prescribed.	
	CHAPTER III RIGHTS AND DUTIES OF DATA PRINCIPAL	

	<p>12. (1) The Data Principal shall have the right to obtain from the Data Fiduciary to whom she has previously given consent, or is deemed to have given consent under clause (a) of section 8, for processing of personal data, upon making to it a request in such manner as may be prescribed,—</p>	<p>Right to access information about personal data.</p>
	<p>(a) a summary of the personal data of such Data Principal which is being processed by such Data Fiduciary and the processing activities undertaken by that Data Fiduciary with respect to such personal data;</p>	
	<p>(b) the identities of any other Data Fiduciaries and Data Processors with whom the personal data has been shared by such Data Fiduciary, along with a description of the personal data so shared; and</p>	
	<p>(c) such other information, related to the personal data of such Data Principal and its processing, as may be prescribed.</p>	
	<p>(2) Nothing contained in clauses (b) or (c) of sub-section (1) shall apply in respect of the sharing of any personal data by a Data Fiduciary to whom the Data Principal has previously given consent or is deemed to have given consent under clause (a) of section 8 for processing of the same, with any other Data Fiduciary authorised by law to obtain such personal data, where such sharing is pursuant to a request made in writing by such other Data Fiduciary for the purpose of prevention or detection or investigation of offences or cyber incidents, or for prosecution or punishment of offences.</p>	

<p>Right to correction and erasure of personal data.</p>	<p>13. (1) A Data Principal shall have the right to correction, completion and updating of her personal data for the processing of which she has previously given consent or is deemed to have given consent under clause (a) of section 8, in accordance with any requirement or procedure under any law for the time being in force.</p>	
	<p>(2) A Data Fiduciary shall, upon receiving in respect of personal data as referred to in sub-section (1) a request from a Data Principal made in such manner as may be prescribed,—</p>	
	<p>(a) correct a Data Principal’s inaccurate or misleading personal data;</p>	
	<p>(b) complete a Data Principal’s incomplete personal data; and</p>	
	<p>(c) update a Data Principal’s personal data.</p>	
	<p>(3) A Data Principal shall have the right to erasure of her personal data, in accordance with any requirement or procedure under any law for the time being in force, and the Data Fiduciary shall, upon receiving in respect of personal data as referred to in sub-section (1) a request from the Data Principal made in such manner as may be prescribed, erase her personal data unless retention is necessary for the purpose for which it was processed or for compliance with any law for the time being in force.</p>	
	<p>14. (1) A Data Principal shall have the right to readily available means of grievance provided by a Data Fiduciary in respect of any act or omission of such Data Fiduciary, regarding the performance of its obligations in relation to the personal data of such Data Principal or the exercise of her rights under the provisions of this Act.</p>	<p>Right of grievance redressal.</p>

	(2) The Data Fiduciary shall respond to grievances referred to in sub-section (1) within a period of seven days, or such shorter period as may be prescribed for all Data Fiduciaries or any class of Data Fiduciaries.	
	(3) The Data Principal shall exhaust the opportunity of redressing her grievance under this section before approaching the Board.	
	<i>Explanation.</i> —It is hereby clarified that the classes of Data Fiduciaries shall be such as may be specified while prescribing.	
	15. A Data Principal shall have the right to nominate, in such manner as may be prescribed, any other individual, who shall, in the event of death or incapacity of the Data Principal, exercise the rights of the Data Principal in accordance with the provisions of this Act.	Right to nominate.
	<i>Explanation.</i> —For the purposes of this section, the term “incapacity” means inability to exercise the rights of the Data Principal under the provisions of this Act due to unsoundness of mind or infirmity of body.	
Duties of Data Principal.	16. (1) A Data Principal shall comply with the provisions of all applicable laws while exercising rights under the provisions of this Act.	
	(2) A Data Principal shall not—	
	(a) impersonate another person;	
	(b) suppress any material information while applying for issuance of a document, unique identifier, proof of identity or proof of address by the State or any of its instrumentalities; and	
	(c) register a false or frivolous grievance or complaint with a Data Fiduciary or the Board.	

	<i>Explanation.</i> —For the purposes of this subsection, the term “State” shall have the meaning assigned to it in article 12 of the Constitution.	
	CHAPTER IV SPECIAL PROVISIONS	
Processing of personal data outside India.	17. (1) A Data Fiduciary may, unless restricted by the Central Government by notification upon the assessment of such factors as it may consider necessary, transfer personal data for processing to any country or territory outside India in accordance with such terms and conditions as the Central Government may notify.	
	(2) Nothing in this section shall restrict the applicability of any law for time being in force in India that provides for a higher degree of protection for or restriction on transfer of personal data by a Data Fiduciary outside India in relation to any personal data or Data Fiduciary or class thereof which may be provided for under that law.	
	18. (1) The provisions of Chapter II, except subsections (1) and (5) of section 9, and those of Chapter III and section 17 shall not apply where—	Legitimate purposes.
	(a) the processing of personal data is necessary for enforcing any legal right or claim;	
	(b) the processing of personal data by any court or tribunal or any other body in India which is entrusted by law with the performance of any judicial or quasi-judicial or regulatory or supervisory function, where such processing is necessary for the performance of such function;	

	(c) personal data is processed in the interest of prevention, detection, investigation or prosecution of any offence or contravention of any law for the time being in force in India;	
	(d) personal data of Data Principals not within the territory of India is processed pursuant to any contract entered into with any person outside the territory of India by any person based in India;	
	(e) the processing is necessary for a scheme of compromise or arrangement or merger or amalgamation of two or more companies or a reconstruction by way of demerger or otherwise of a company, or transfer of undertaking of one or more company to another company, or involving division of one or more, approved by a court or tribunal or other authority competent to do so by law for the time being in force; and	
	(f) the processing is for the purpose of ascertaining the whereabouts, financial information and assets and liabilities of any person from whom a claim is due against a debt owed by her, subject to such processing being in accordance with the provisions regarding disclosure of information or data in any other law for the time being in force.	
	(2) The application of provisions of this Act shall be exempt in respect of the processing of personal data—	

	<p>(a) by such instrumentality of the State as the Central Government may notify, in the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, maintenance of public order or preventing incitement to any cognizable offence relating to any of these, and the processing by the Central Government of any personal data that such instrumentality may furnish to it; and</p>	
	<p>(b) necessary for research, archiving or statistical purposes if the personal data is not to be used to take any decision specific to a Data Principal and such processing is carried on in accordance with standards specified by the Central Government by notification.</p>	
	<p><i>Explanation.</i>—For the purposes of this subsection, the term “State” shall have the meaning assigned to it in article 12 of the Constitution.</p>	
	<p>(3) The Central Government may by notification, having regard to the volume and nature of personal data processed, notify certain Data Fiduciaries or class of Data Fiduciaries, including startups, as Data Fiduciaries to whom the provisions of section 6, sub-sections (3) and (7) of section 9, sub-sections (1) and (3) of section 10, and sections 11 and 12 of this Act shall not apply.</p>	
	<p><i>Explanation 1.</i>—For the purposes of this subsection, the term “startup” means a private limited company or a partnership firm or a limited liability partnership incorporated in India, which is eligible to be and is recognised as such in accordance with the criteria and process notified by the department to which matters relating to start-ups are allocated in the Central Government.</p>	

	<i>Explanation 2.</i> —It is hereby clarified that the classes of Data Fiduciaries shall be such as may be specified while prescribing.	
	(4) The provisions of sub-section (7) of section 9 and sub-section (3) of section 13 of this Act shall not apply in respect of processing by the State or any instrumentality of the State.	
	<i>Explanation.</i> —For the purposes of this sub-section, the term “State” shall have the meaning assigned to it in article 12 of the Constitution.	
	(5) The Central Government may, before expiry of five years from the date of commencement of this Act, declare by notification that any provision of this Act shall not apply to such Data Fiduciary or classes of Data Fiduciaries for such period as may be specified in the notification.	
	<i>Explanation.</i> —It is hereby clarified that the classes of Data Fiduciaries shall be such as may be specified while prescribing.	
	CHAPTER V BREACHES, RESOLUTION AND PENALTIES	
Data Protection Board of India.	19. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board to be called the Data Protection Board of India	
	(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.	

	(3) The headquarters of the Board shall be at such place as the Central Government may notify.	
	(4) The Board shall consist of a Chairperson and other Members, to be appointed by the Central Government by notification, such that the total membership of the Board is not more than seven or such higher number as the Central Government may notify.	
	(5) The Chairperson and every other Member shall be a person of ability, integrity and standing who possesses special knowledge or practical experience in data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication technology, digital economy, law, regulation or techno-regulation, or in any other field which in the opinion of the Central Government may be useful to the Board, and at least one among them shall be an expert in the field of law.	
	(6) The Chairperson and every other Member shall hold office for a term of two years and shall be eligible for re-appointment.	
	(7) The salary, allowances and other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed, and shall not be varied to their disadvantage after their appointment.	
	(8) The Central Government shall, after giving an opportunity of being heard, remove from office any Chairperson or other Member if she has—	
	(a) been adjudged as an insolvent; or	
	(b) become physically or mentally incapable of discharging the duties of her office; or	

	(c) acquired such financial or other interest as is likely to affect prejudicially the discharge of her duties; or	
	(d) been convicted of an offence, which in the opinion of the Central Government, involves moral turpitude; or	
	(e) in the opinion of the Central Government so abused his position as to render his continuation in office detrimental to the public interest.	
	(9) The Chairperson or any other Member may give notice in writing to the Central Government of resigning from her office, and such resignation shall be effective from the date on which the Central Government permits her to relinquish office, or upon expiry of a period of three months from the date of receipt of such notice, or upon a duly appointed successor entering upon her office, or upon the expiry of the term of her office, whichever is earliest.	
	(10) A vacancy caused by the resignation or removal or death of the Chairperson or any other Member, or otherwise, shall be filled by fresh appointment in accordance with the provisions of this Act.	
	(11) The Chairperson and any other Member shall not, for a period of one year from the date on which they cease to hold such office, except with the previous approval of the Central Government, accept any employment, and shall also disclose to the Central Government any subsequent acceptance of employment with any Data Fiduciary against whom proceedings were initiated by or before such Chairperson or other Member.	

	(12) The Board shall observe such procedure in regard to the holding of and transaction of business at its meetings, including by digital means, and authenticate its orders, directions and instruments in such manner as may be prescribed.	
	(13) No act or proceeding of the Board shall be invalid merely by reason of—	
	(a) any vacancy in or any defect in the constitution of the Board; or	
	(b) any defect in the appointment of a person acting as the Chairperson or other Member of the Board; or	
	(c) any irregularity in the procedure of the Board, which does not affect the merits of the case.	
	(14) When the Chairperson is unable to discharge her functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes her duties.	
	(15) The Board may, with previous approval of the Central Government, appoint such officers and employees as it may deem necessary for the efficient discharge of its functions under the provisions of this Act, on such terms and conditions of appointment and service as may be prescribed.	
45 of 1860	(16) The Chairperson, Members, officers and employees of the Board shall be deemed, when acting or purporting to act in pursuance of provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.	

	(17) The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Board and shall allocate proceedings among individual Members or groups of Members authorised to conduct proceedings in accordance with the provisions of this Act.	
	20. (1) The Board shall, on receipt of an intimation of personal data breach from a Data Fiduciary, or on a complaint made by a Data Principal for a personal data breach or the breach in observance by a Data Fiduciary of its obligations in relation to her personal data or the exercise of her rights under the provision of this Act, or on a reference made to it by the Central Government or a State Government, or in compliance of the directions of any court, take action in accordance with the provisions of this Act to perform the following functions, namely:—	Functions of Board.
	(a) direct any urgent remedial or mitigation measures in the event of a personal data breach; and	
	(b) inquire into such personal data breach or other breach as aforesaid, and impose penalty.	
	(2) The Board may, for the effective discharge of its functions under the provisions of this Act, after giving the person concerned an opportunity of being heard while recording reasons in writing, issue such directions as it may consider necessary to such person, who shall be bound to comply with the same.	

	(3) The Board may, on a representation made to it by a person affected by a direction issued under sub-sections (1) or (2), or on a reference made by the Central Government, modify, suspend, withdraw or cancel such direction and, while doing so, impose such conditions as it may deem fit, subject to which the modification, suspension, withdrawal or cancellation shall have effect.	
Procedure to be followed by Board.	21. (1) The Board shall function as an independent body and shall, as far as possible, function as a digital office, with the receipt of complaints and the allocation, hearing and pronouncement of decisions in respect of the same being digital by design, and employ such techno-legal measures as may be prescribed.	
	(2) The Board may, on an intimation or complaint or reference or directions as referred to in sub-section (1) of section 20, take action in accordance with the provisions of this Act.	
	(3) The Board may authorise conduct of proceedings relating to intimations or complaints or references or directions as referred to in sub-section (2), by individual Members or groups of Members.	
	(4) The Board shall determine whether there are sufficient grounds to proceed with an inquiry.	
	(5) In case the Board determines that there are insufficient grounds, it may, for reasons to be recorded in writing, close the proceedings.	
	(6) In case the Board determines that there are sufficient grounds to proceed with inquiry, it may, for reasons to be recorded in writing, inquire into the affairs of any person for ascertaining whether such person is complying with or has complied with the provisions of this Act.	

	(7) The Board shall conduct such inquiry following the principles of natural justice and shall record reasons for its actions during the course of such inquiry.	
5 of 1908	(8) For the purposes of proceedings under this Act, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of matters relating to summoning and enforcing the attendance of persons, examining them on oath, inspecting any data, book, document, register, books of account or any other document, and such other matters as may be prescribed.	
	(9) Inquiry under this section shall be completed at the earliest.	
	(10) The Board or its officers shall not prevent access to any premises or take into custody any equipment or any item that may adversely affect the day-to-day functioning of a person.	
	(11) The Board may require the services of any police officer or any officer of the Central Government or a State Government to assist it for the purposes of this section and it shall be the duty of every such officer to comply with such requisition.	
	(12) During the course of the inquiry if the Board considers it necessary it may, for reasons to be recorded in writing, issue interim orders after giving the person concerned opportunity of being heard.	
	(13) On conclusion of the inquiry and after giving the person concerned opportunity of being heard, the Board may for reasons to be recorded in writing either close the proceedings or proceed in accordance with section 26 of this Act.	

	(14) At any stage after receipt of a complaint, if the Board determines that the complaint is false or frivolous, it may issue a warning or impose costs on the complainant.	
	(15) Every person shall be bound by the orders of the Board.	
Appeal.	22. Any person aggrieved by an order of the Board may prefer an appeal to the High Court within sixty days from the date of such order.	
Bar of jurisdiction.	23. No civil court shall have the jurisdiction to entertain any suit or proceeding in respect of any matter for which the Board is empowered under the provisions of this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power under the provisions of this Act.	
Alternate dispute resolution.	24. If the Board is of the opinion that any complaint may be resolved by mediation, it may direct the parties concerned to attempt resolution of the dispute through such mediation as the Board may deem appropriate.	
Voluntary undertaking.	25. (1) The Board may accept a voluntary undertaking in respect of any matter related to observance to the provisions of this Act from any person at any stage of a proceeding under section 21.	
	(2) Such voluntary undertaking may include an undertaking to take specified action within a specified time, or refrain from taking specified action, and or publicising such undertaking.	
	(3) The Board may, after accepting the voluntary undertaking and with the agreement of the person who gave the voluntary undertaking vary the terms included in the voluntary undertaking.	

	(4) Acceptance of the voluntary undertaking by the Board shall constitute a bar on proceedings under the provisions of this Act as regards the contents of the voluntary undertaking, except in cases covered by sub-section (5).	
	(5) Where a person fails to adhere to any term of the voluntary undertaking accepted by the Board, such breach shall be deemed to be breach of the provisions of this Act and the Board may, after giving such person an opportunity of being heard, proceed in accordance with section 26.	
	26. (1) If the Board determines on conclusion of an inquiry that breach of the provisions of this Act by a person is significant, it may, after giving the person opportunity of being heard, impose such financial penalty as is specified in the Schedule.	Penalty.
	(2) While determining the amount of financial penalty to be imposed under sub-section (1), the Board shall have regard to the following matters, namely:—	
	(a) the nature, gravity and duration of the breach;	
	(b) the type and nature of the personal data affected by the breach;	
	(c) repetitive nature of the breach;	
	(d) whether the person, as a result of the breach, has realised a gain or avoided any loss;	
	(e) whether the person took any action to mitigate the effects and consequences of the breach, and the timeliness and effectiveness of such action;	

	(f) whether the financial penalty to be imposed is proportionate and effective, having regard to the need to secure observance of and deter breach of the provisions of this Act; and	
	(g) the likely impact of the imposition of the financial penalty on the person.	
	CHAPTER VI MISCELLANEOUS	
Protection of action taken in good faith.	27. No suit, prosecution or other legal proceedings shall lie against the Central Government, the Board, its Chairperson and any Member, officer or employee thereof for anything which is done or intended to be done in good faith under the provisions of this Act.	
Power to call for information.	28. The Central Government may, for the purposes of this Act, require the Board and any Data Fiduciary to furnish such information as the Central Government may call for.	
Power to make rules.	29. (1) The Central Government may, by notification, make rules not inconsistent with the provisions of this Act to carry out the purposes of this Act.	
	(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—	
	(a) the form of the notice referred to in clause (a) of the Explanation to sub-section (2) of section 6;	
	(b) the manner and conditions referred to in sub-section (9) of section 7;	
	(c) the form and manner referred to in sub-section (6) of section 9;	

	(d) the manner of publishing the business contact information referred to in sub-section (8) of section 9;	
	(e) the manner of obtaining the verifiable parental consent referred to in sub-section (1) of section 10;	
	(f) the classes of Data Fiduciaries and the purposes referred to in sub-section (4) of section 10;	
	(g) the manner of carrying out assessment referred to in sub-section (1) of section 11;	
	(h) the other matters and measures referred to in clause (c) of sub-section (2) of section 11;	
	(i) the manner of making requests and the other information referred to in section 12;	
	(j) the manner of making requests referred to in sub-sections (2) and (3) of section 13;	
	(k) the manner of nominating other individual referred to in section 15;	
	(l) the factors referred to in section 17;	
	(m) the salary and allowances and other terms and conditions of service referred to in sub-section (7) of section 19;	
	(n) the procedure regarding the holding of and the transaction of business at Board meetings and the manner of authentication referred to in sub-section (12) of section 19;	

	(o) the terms and conditions of appointment and service referred to in sub-section (15) of section 19;	
	(p) the techno-legal measures referred to in sub-section (1) of section 21;	
	(q) the other matters with respect to which the Board shall have the powers referred to in sub-section (7) of section 21; and	
	(r) any other matter which is to be or may be prescribed, or in respect of which provision is to be or may be made by rules.	
	(3) Every rule made under the provisions of this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.	
Power to amend Schedule.	30. (1) The Central Government may, by notification, amend the Schedule, subject to the restriction that no such notification shall have the effect of increasing any penalty specified therein to more than double of what was specified in it when this Act was originally enacted.	

	(2) Any amendment notified under sub-section (1) shall have effect as if enacted in this Act and shall come into force on the date of the notification, unless the notification otherwise directs.	
	(3) Every amendment made by the Central Government under sub-section (1) shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the amendment or both Houses agree that the amendment should not be made, the amendment shall thereafter have effect only in such modified form, or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that amendment.	
	31. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, before expiry of five years from the date of commencement of this Act, by an order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.	Removal of difficulties.
	(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.	
	32. (1) The provisions of this Act shall be in addition to, and not construed in derogation of the provisions of any other law, and shall be construed as consistent with such law, for the time being in force.	Consistency with other laws.

	(2) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force, the provision of this Act shall prevail to the extent of such conflict.	
Amendments.	33. (1) The Information Technology Act, 2000 shall be amended in the following manner, namely:—	21 of 2000
	(a) Section 43A thereof shall be omitted;	
	(b) In section 81 thereof, in the proviso, after the words and figures “the Patents Act, 1970”, the words “or the Digital Personal Data Protection Act, 2022” shall be inserted; and	
	(c) Clause (ob) of sub-section (2) of section 87 thereof shall be omitted.	
	(2) Clause (j) of sub-section (1) of section 8 of the Right to Information Act, 2005 shall be amended in the following manner, namely:—	22 of 2005
	(a) The words “the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information” shall be omitted; and	
	(b) The proviso shall be omitted.	

SCHEDULE		
(See section 26)		
S. No.	Subject matter of breach	Penalty
(1)	(2)	(3)
1	Breach in observing the obligation of Data Fiduciary to take reasonable security safeguards to prevent personal data breach, under sub-section (5) of section 9	Penalty up to two hundred and fifty crore rupees
2	Breach in observing the obligation to give the Board or affected Data Principals notice of a personal data breach, under sub-section (6) of section 9	Penalty up to two hundred crore rupees
3	Breach in observance of additional obligations in relation to children, under section 10	
4	Breach in observance of additional obligations of Significant Data Fiduciary, under section 11	Penalty up to one hundred and fifty crore rupees
5	Breach in observance of the duties under sub-section (2) of section 16	Penalty up to ten thousand rupees
6	Breach of any term of voluntary undertaking accepted by the Board under section 26	Penalty up to the extent applicable for the breach in respect of which the proceedings under section 21 were instituted
7	Breach of any other provisions of this Act, other than the provisions of section 16	Penalty up to fifty crore rupees