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## **EXPLORING THE KEY FEATURES AND PROVISIONS OF THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023: SAFEGUARDING PRIVACY IN THE DIGITAL AGE**

**TASK1: BLOG**

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## **INTRODUCTION**

In today's digital age, keeping our data safe and private is a matter of concern around the world. With all the technology we use such as collecting, storing, and using personal information, people are realizing the risks of breach of personal data. There's a strong call for strict laws to protect our data, especially when big companies have major data breaches and privacy issues. Even though India has a law governing privacy issues called the Information Technology Act, of 2000<sup>i</sup>, it is not effective in safeguarding people's data privacy in today's world. Therefore, to overcome this shortcoming, the Indian Parliament enacted the Digital Personal Data Protection Act, of 2023<sup>ii</sup> on 11<sup>th</sup> August 2023.

The article aims to examine the key features, provisions, scope, and objectives of the Digital Personal Data Protection Act, 2023<sup>iii</sup>.

## **SCOPE AND OBJECTIVES OF THE ACT**

The term "personal data", as defined under the Act, refers to any information relating to any data about an individual who is identifiable by or in relation to such data.<sup>iv</sup> The purpose of the Act is to establish a comprehensive system for safeguarding personal data in India. Its key objectives include fostering a secure digital environment and encouraging responsible handling of data by organizations and applies to various entities, both public and private, involved in managing personal data. It seeks to regulate every stage of personal data, from collection and storage to processing and transfer, emphasizing cross-border data transfers and sensitive personal information. It also acknowledges individuals' rights to safeguard their personal information while also recognizing the necessity to process such data for lawful purposes.

The legislation is applicable to the digital processing of personal data within India, whether obtained online or offline and later digitized. It also encompasses the processing of personal data outside India if it includes providing goods or services to India. However, the Act excludes the

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<sup>i</sup>Digital Personal Data Protection Act, 2023, S. 1(2)(t), No. 22, Acts Of Parliament, 2023 (India).

processing of personal data for law enforcement or national security purposes, as well as activities related to journalism, artistic expression, or personal and family use.<sup>2</sup>

## **KEY FEATURES AND PROVISIONS OF THE ACT**

**Consent:** Processing personal data requires lawful consent, preceded by a notification specifying the data and processing purpose. Consent withdrawal is allowed. 'Legitimate uses' exempt from explicit consent include voluntary data provision, government benefits, medical emergencies, and employment. Individuals under 18 require parental or legal guardian consent.

**Data Principal:** This pertains to the individual to whom the personal data belongs. In the case of a child, it includes the parents or legal guardian of the child, and for an individual with a disability, it involves their legal guardian, who acts on their behalf.<sup>v3</sup>

**Data Fiduciary:** This pertains to any individual who, either on their own or in cooperation with others, determines the purpose and methods of processing personal data.<sup>vi4</sup>

**Rights and Duties of the Data Principal<sup>vii5</sup>:** The person whose data is being processed, known as the Data Principal, has the right to: (i) obtain information about the processing, (ii) request corrections and deletion of personal data, (iii) appoint another individual to assert rights in case of death or incapacity, and (iv) seek grievance redressal. Data Principals also bear certain responsibilities, including refraining from: (i) making false or frivolous complaints and (ii) providing inaccurate information or impersonating others. Non-compliance with these obligations may lead to a penalty of up to Rs. 10,000.

**Responsibilities of Data Fiduciaries<sup>viii 6</sup>:** The organization responsible for defining the objectives and methodologies of data processing, known as the data fiduciary, is required to: (i) make reasonable efforts to guarantee the accuracy and completeness of data, (ii) implement reasonable security measures to prevent data breaches, (iii) inform the Data Protection Board of India and affected individuals in the event of a breach, and (iv) promptly delete personal data when the purpose is achieved, and retention is not legally necessary (storage limitation).

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<sup>2</sup>*Id.* S.3(c).

<sup>3</sup>*Id.* S.1(2)(j).

<sup>4</sup>*Id.* S.1(2)(i).

<sup>5</sup>*Id.* Chapter III.

<sup>6</sup>*Id.* Chapter II.

Government entities, however, are exempt from storage limitation and the data principal's right to erasure.

**Transfer of Personal Data outside India:** The legislation permits the transfer of personal data outside India, except to countries restricted by the central government through notification.

**Exemptions:** Some instances are excluded from the rights of the data principal and duties of data fiduciaries (excluding data security). These involve: (i) preventing and investigating offenses, and (ii) enforcing legal rights or claims. The central government can, through notification, exempt certain activities from the bill's scope, including processing by government entities for state security and public order, as well as for research, archiving, or statistical purposes.

**Data Protection Board of India<sup>ix7</sup>:** The Data Protection Board of India will be established by the central government, with responsibilities including (i) overseeing compliance and imposing penalties, (ii) instructing data fiduciaries in responding to data breaches, and (iii) addressing grievances from affected individuals. Board members will have a two-year term and may be reappointed. The central government will specify details like the number of board members and the selection process. Decisions of the Board can be appealed to the Telecom Disputes Settlement and Appellate Tribunal (TDSAT).

**Penalties<sup>x8</sup>:** The legislation specifies penalties for diverse offenses, with potential fines reaching (i) Rs 200 crore for neglecting obligations related to children and (ii) Rs 250 crore for not implementing security measures to avert data breaches. The Board will impose these penalties after conducting an inquiry.

## CONCLUSION

The Digital Personal Data Protection Act signifies a crucial advancement in privacy legislation for the digital age. Balancing individual rights and societal needs, the Act meticulously defines personal data, emphasizes consent, and outlines exceptions. Its comprehensive regulation of the data processing lifecycle and acknowledgment of cross-border challenges make it a beacon for

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<sup>7</sup>*Id.* Chapter V.

<sup>8</sup>*Id.* Chapter VIII.

creating a secure and responsible digital environment. As the digital landscape evolves, this Act stands as a cornerstone in safeguarding personal data in our increasingly digital world.

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<sup>i</sup> Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

<sup>ii</sup> Digital Personal Data Protection Act, 2023, No. 22, Acts Of Parliament, 2023 (India).

<sup>iii</sup> *Id.*

<sup>iv</sup> *Id.* S. 1(2)(t)

<sup>v</sup> *Id.* S.1(2)(j).

<sup>vi</sup> *Id.* S.1(2)(i).

<sup>vii</sup> *Id.* Chapter III.

<sup>viii</sup> *Id.* Chapter II.

<sup>ix</sup> *Id.* Chapter V.

<sup>x</sup> *Id.* Chapter VIII.

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