DATA PRIVACY DAY | #DPD2023 | JANUARY 28, 2023

THINK PRiVACY FIRST

DSCI
PROMOTING DATA PROTECTION
A NASSCOM® Initiative

INDIA'S DRAFT DIGITAL PERSONAL DATA PROTECTION (DPDP) BILL 2022

DECODING THE DRAFT BILL FOR

BUSINESSES

The revised Draft DPDP Bill 2022 is observed to be more comprehensive, reduces the compliance burden and is proposed in favour of the industry.

TO WHOM DOES IT APPLY?

The bill does not apply to non-automated processing of personal data, offline personal data, or processing for personal or domestic purposes.

The proposed bill applies to the processing of only digital personal data whether collected online or collected offline and then digitised.

There is an exemption for certain data fiduciaries or classes of data fiduciaries based on the volume and nature of personal data they process from the applicability of certain provisions of the bill.

Businesses can process data only for lawful purposes based on consent and deemed consent in accordance with requirements laid under the bill or any other applicable rules or regulations enacted under it.

To obtain informed consent, it is required to furnish an itemized notice in clear and plain language (English or any of the Scheduled languages) containing adescription of personal data and its intended use.

Businesses are expected to implement the necessary organizational and technical safeguards to ensure compliance with the bill, and take reasonable security precautions to prevent any breach of personal data.

It is required to publish the business contact information of a Data Protection Officer (DPO) or of the authority who is responsible to respond to individuals' inquiries about the processing of their personal data.

PRIVACY ASPECTS TO FOLLOW FOR COMPLIANCE AND EASE OF DOING BUSINESS

Businesses may use data processors to process personal data on their behalf, under a legal contract, after taking an individual's consent.

It is expected to obtain verified parental consent while processing children's data. It is also recommended to not process process such data that may endanger children.

A designated Significant Data Fiduciary (SDF) is required to appoint Data Protection Officer (DPO) and an independent data auditor to assess SDFs compliance with the bill.

The bill permits the provision of transferring of data to countries that may be notified by the government with prescribed conditions.

THE BILL ENSURES SIMPLIFIED IMPLEMENTATION OF MECHANISMS

The bill ensures simplified implementation of mechanisms.

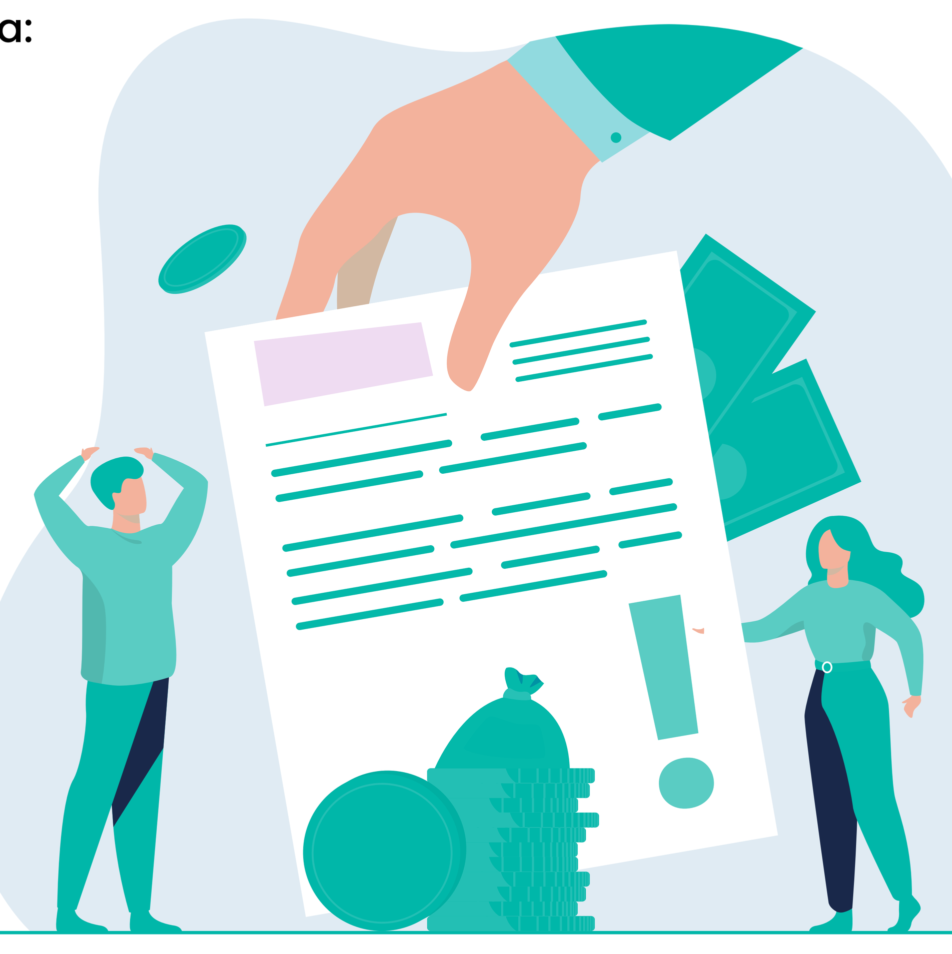
Provision of Voluntary undertakings to encourage proactive actions for data protection.

Availability of alternate dispute like mediation, to settle disputes.

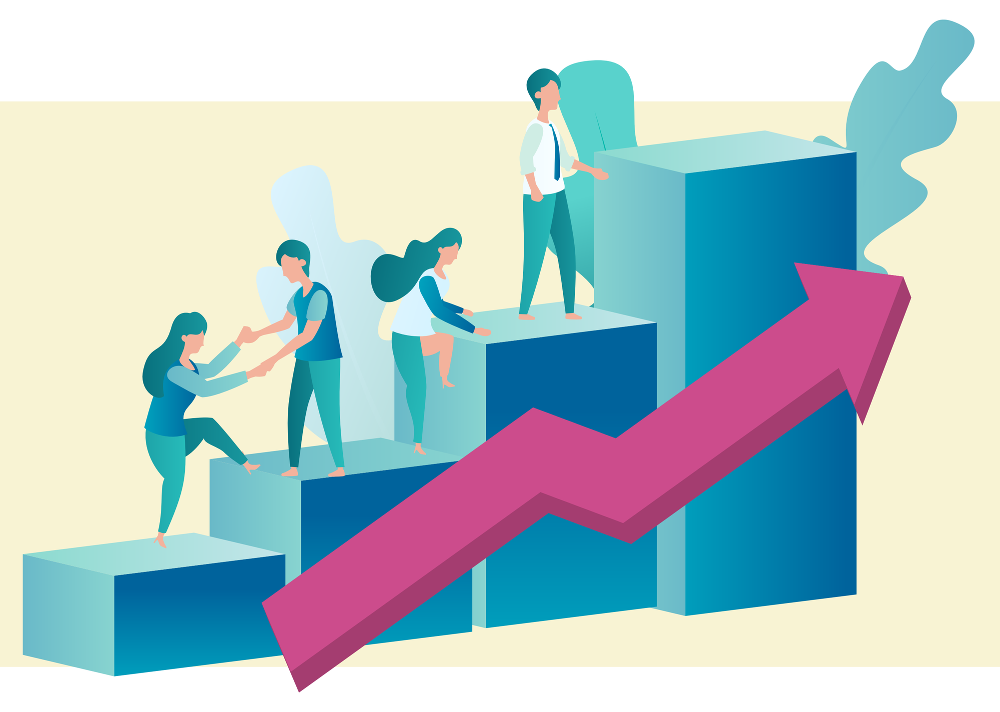
WATCH OUT FOR THE PENALTIES IN CASE OF NON-COMPLIANCE

Financial penalties are applied in case of non-compliance of up to a maximum of 500 crores for each instance.

Penalties are determined on certain criteria:



- Failure to implement security safeguards for preventing data breach **- up to Rs. 250 crores**
- Failure to notify Boards and affectedprincipals of data breach **- up to Rs. 200 crores**
- Non-compliance with obligations regarding children's data **- up to Rs. 200 crores**
- Any other non-compliance **- up to Rs. 50 crores.**



PRIVACY ENABLEMENT

BOON FOR BUSINESS GROWTH

- Privacy protection builds digital trust and promotes efficiency.
- Transparency and accountability standards provide a competitive edge.
- Boost privacy technology innovation.
- Privacy protection reduces business risks and simplifies compliance.
- Data Processing through privacy compliance enables data driven decision making and creates value for an organization.
- Enhances credibility and creates consumer trust in services.

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