MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

DPDP Act: what India's data protection law asks of a business

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THE DPDP ACT COVERS digital personal data processed in India, and processing abroad connected with offering goods or services to people in India (section 3). You're a Data Fiduciary for data whose purpose and means you decide, and a Data Processor for data you process for one.

KEY FACTS

DATA PROTECTION

Digital Personal Data Protection Act, 2023

DATA RULES

Digital Personal Data Protection Rules, 2025

IT LAW

Information Technology Act, 2000

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Who does the DPDP Act cover?

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Terms the DPDP Act uses (section 2)

Term	Meaning	Section
Personal data	Data about an individual identifiable by or in relation to it	Section 2(t)
Data Fiduciary	Decides, alone or with others, why and how data is processed	Section 2(i)
Data Processor	Processes personal data on a Data Fiduciary's behalf	Section 2(k)

The Act leaves out an individual's personal or domestic use, data the person made public, and data published under a duty in Indian law (section 3(c)).

A SaaS provider or developer is a Fiduciary or a Processor depending on who decides why and how. An example in MeitY's Rules treats a company's cloud host for customer records as its Data Processor (G.S.R. 846(E), rule 8(3), case 2). For a company abroad, see India's digital laws for foreign companies.

When can you process personal data without consent?

Without consent, you can process personal data only for one of the legitimate uses section 7 of the DPDP Act lists, or under a section 17 exemption. Section 4(1) allows processing only for a lawful purpose, with consent or for those uses. There's no general legitimate-interest ground, so any other use needs consent.

- Data a person gave you voluntarily for a purpose, if she hasn't said she objects (section 7(a)).
- State benefits and functions, legal duties to disclose, and court orders (section 7(b) to (e)).
- Medical emergencies, epidemics, disasters and breakdowns of public order (section 7(f) to (h)).
- Employment, and protecting the employer from loss or liability, such as espionage or leaked trade secrets (section 7(i)). The Act doesn't say whether this reaches checks before hiring.

What must a DPDP notice and consent look like?

A DPDP notice comes with or before every request for consent (section 5(1)). Under rule 3, it stands on its own in plain language and lists the data item by item and the purpose. It says how to withdraw consent, use rights and complain to the Data Protection Board.

What a DPDP notice must give (section 5(1); rule 3)

Item	Source
The personal data, item by item	Section 5(1)(i); rule 3(b)(i)
The specific purpose, and the goods, services or uses it enables	Section 5(1)(i); rule 3(b)(ii)
Ways to withdraw consent, use the Act's rights and complain to the Board, with a link to your site or app	Section 5(1)(ii) and (iii); rule 3(c)

You must give the person the option to read the notice in English or any language in the Constitution's Eighth Schedule (section 5(3)). Consent must be free, specific, informed, unconditional and unambiguous, by a clear affirmative action (section 6(1)).

Someone who consented before the Act's commencement gets a notice as soon as reasonably practicable, and you may keep processing until she withdraws (section 5(2)). Section 1(2) makes that section 5's own start, the eighteen-month step.

What is a Consent Manager, and do you need one?

A Consent Manager is a company registered with the Data Protection Board that lets a person give, manage, review or withdraw consent (section 6(7)). Using one is the person's option; neither the Act nor the Rules require a business to. Registration opens about November 13, 2026, one year after the Gazette of November 13, 2025.

Conditions for a Consent Manager (DPDP Rules, First Schedule)

Condition	Source
A company incorporated in India, with a net worth of at least ₹2 crore	Part A, items 1 and 4
A platform independently certified to the Board's standards	Part A, item 9
It can't read the data it passes on, and acts as a fiduciary for the person	Part B, items 2 and 8
Consent records kept for at least 7 years	Part B, item 4(c)

What must every Data Fiduciary do?

Every Data Fiduciary answers for its processors and keeps data accurate where it's used for decisions or shared (section 8). It takes reasonable security safeguards, reports breaches, erases data once its purpose is served and runs a grievance system. These duties start about May 13, 2027.

Duties of a Data Fiduciary (section 8; DPDP Rules)

Duty	What it asks	Source
Processors	You answer for them whatever any agreement says, and use them to offer goods or services only under a valid contract with security clauses	Section 8(1) and (2); rule 6(1)(f)
Security	At the minimum: data security, access control, monitoring, backups, and security logs kept 1 year unless another law says otherwise	Section 8(5); rule 6(1)
Breach notice	The Board and each affected person told	Section 8(6); rule 7

Erasure	When consent is withdrawn or the purpose is no longer served, unless a law needs the data	Section 8(7)
Contact and grievances	A published contact and way to make requests, and grievances answered within 90 days at most	Section 8(9) and (10); rules 9 and 14

Rule 6(1)(a) names encryption as one example, beside obfuscation, masking and virtual tokens. Only a Significant Data Fiduciary needs a Data Protection Officer, its representative in India (section 10(2)(a)). The DPDP texts set no qualifications for the post.

More on data breach reporting in India and cross-border data transfer under the DPDP Act.

How long must you keep data, and when must you erase it?

Every Data Fiduciary must keep personal data, traffic data and processing logs at least a year from the processing (DPDP Rules, rule 8(3)). It erases data once consent is withdrawn or the purpose is no longer served, unless a law requires it kept (section 8(7)). Large platforms also erase after three idle years.

Who must erase after three years of inactivity (DPDP Rules, Third Schedule)

Entity	Registered users in India	Item
E-commerce entity	At least 2 crore users	Item 1
Online gaming intermediary	At least 50 lakh users	Item 2
Social media intermediary	At least 2 crore users	Item 3

The three years run from the user's last approach or use of her rights, or the Rules' commencement, if later. Data that lets her reach her account, or virtual tokens that can get money, goods or services, is kept. You warn her at least 48 hours ahead, and logging in or making contact stops it (rule 8(2)).

Rule 8(3)'s year, which binds your processors too, serves the Seventh Schedule's government purposes. Its example: an e-book platform keeps order records for at least a year after the sale, even if the buyer deletes her account.

What are the rules for children's data?

Under the DPDP Act, a child is anyone under 18 (section 2(f)). You need a parent's or lawful guardian's verifiable consent before processing a child's data (section 9(1)). You can't track, behaviorally monitor or target ads at children, or process their data in ways likely to harm their well-being (section 9(2) and (3)).

Rule 10(1) asks you to check "that the individual identifying herself as the parent is an adult who is identifiable if required in connection with compliance with any law" (DPDP Rules). You can use details you hold, details she gives, or a token from an authorized entity, a Digital Locker provider included (rule 10(1) and (2)).

The Fourth Schedule lifts parental consent and the tracking ban, within limits, for health providers, educational institutions, day care centers and the transport they engage, and for purposes such as an email-only account (rule 12).

Section 9(1) covers a person with disability who has a lawful guardian too; S.O. 5458(E) of October 5, 2026 made it read "child or of a person with disability". You check that a court, designated authority or local level committee appointed the guardian (rule 11(1)).

What rights do people have, and how fast must you answer?

People can ask a Data Fiduciary they consented to for a summary of their data and who else got it, and have it corrected, completed, updated or erased (sections 11 and 12). They use your grievance system before the Board; you answer within a period you publish, of no more than 90 days (rule 14(3)).

Rights and duties of the person (DPDP Act)

Right or duty	Meaning	Section
Access	A summary of the data, and every Data Fiduciary and Processor it went to	Section 11(1)
Correction and erasure	Correction, completion, updating, and erasure unless the purpose or a law needs the data	Section 12

Nomination	Someone to act after death or incapacity	Section 14(1)
Duties	No false or frivolous complaint, among others; a breach can cost up to ₹10,000	Section 15; Schedule, item 5

What is a Significant Data Fiduciary?

A Significant Data Fiduciary is one the government notifies under section 10(1), weighing factors including data volume and sensitivity, risk to people's rights, sovereignty, electoral democracy, state security and public order. The list names no user count. None had been notified among the documents read to October 31, 2026.

- A Data Protection Officer based in India who answers to its board (section 10(2)(a)).
- An independent data auditor (section 10(2)(b)), and a Data Protection Impact Assessment and audit every twelve months, reported to the Board (rule 13(1) and (2)). Section 10(2)(c)(ii) reads "periodic data audit" since S.O. 5458(E).
- Due diligence that its algorithmic software isn't likely to risk people's rights (rule 13(3)).
- Keeping in India the personal data the government specifies on a committee's advice, and the traffic data on its flow (rule 13(4)).

These duties start about May 13, 2027 (G.S.R. 843(E), para (c)). The 50 lakh figure some pages give is the IT Rules' threshold for significant social media intermediaries (S.O. 942(E)).

Which exemptions does the Act allow?

The DPDP Act lifts most duties and rights for legal claims, courts and regulators, and offenses, though security safeguards apply (section 17(1)). Research, archiving and statistics that aren't used for decisions about a person, and meet the Rules' standards, fall outside it (section 17(2)(b)). Section 3 has no size test; startups get relief only by notification (section 17(3)).

- **Data of people abroad** processed in India under contract with someone abroad gets the same relief (section 17(1)(d)): see cross-border data transfer under the DPDP Act.

- **Startups and other classes** the government notifies, freed from sections 5, 8(3), 8(7), 10 and 11. No such notification was among the documents read to October 31, 2026.

Can the government ask you for personal data?

Yes. Under rule 23(1) of the DPDP Rules, an authorized person can require a Data Fiduciary or intermediary to provide information for the Seventh Schedule's purposes, such as state security. If disclosure is likely to harm sovereignty or state security, you can be barred from telling anyone without written permission (rule 23(2)). Rule 23 starts about May 13, 2027.

When does the DPDP Act apply, and what if you fall short?

Most DPDP duties and all penalties start about May 13, 2027, eighteen months after the Gazette of November 13, 2025 (G.S.R. 843(E), para (c)), which prints no date. The highest penalty, up to ₹250 crore, is for failing to take reasonable security safeguards (Schedule, item 1).

Sections 3 to 17 start then, except section 6(9) on Consent Manager registration (paras (b) and (c)). See the DPDP Act timeline and DPDP Act penalties.

How IndusDesk helps with the DPDP Act

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Latest notices and insights

- DPDP Act order corrects wording on disability consent and audits (Insight, October 5, 2026)

Frequently asked questions

Is a cookie banner enough under the DPDP Act?

Neither the Act nor the Rules mention cookies or banners. Where a cookie collects personal data, the usual tests apply: a notice that stands on its own (rule 3), and consent by a clear affirmative action (section 6(1)). What the banner says and how it takes consent decide whether it meets them.

What makes consent valid, and can you reward users for giving it?

Valid consent is free, specific, informed, unconditional and unambiguous, by a clear affirmative action, and limited to the data the purpose needs (section 6(1)). Neither the Act nor the Rules say whether a reward for consent makes it conditional. Whatever you offer, the person can withdraw as easily as she consented (section 6(4)).

Do you need consent for CCTV footage, or for details customers give about other people?

The Act and the Rules don't mention CCTV, or details customers give about others, such as emergency contacts. Where that data identifies someone, it's personal data, so it needs consent

or a legitimate use the Act lists, unless a section 17 exemption applies (sections 2(t), 4(1), 7 and 17).

Is consent management software a Consent Manager?

Not unless it's registered with the Data Protection Board. The Act defines a Consent Manager as a person registered with the Board, accountable to the person and acting for her (sections 2(g) and 6(8)).

Is there a DPDP compliance certificate you must get?

The Act and the Rules set none for a Data Fiduciary. The independent checks they name are a Significant Data Fiduciary's data auditor (section 10(2)(b)) and the certification of a Consent Manager's platform (DPDP Rules, First Schedule, Part A, item 9).

Does the DPDP Act weaken the Right to Information Act?

Section 44(3) of the DPDP Act replaced clause (j) of section 8(1) of the Right to Information Act, its privacy exemption, with "information which relates to personal information". That has applied since the Gazette of November 13, 2025 (G.S.R. 843(E), para (a)). How far it changes what applicants get turns on the rest of the RTI Act, which this page doesn't cover.

What should a GDPR program check for the DPDP Act?

A GDPR program should check India's own tests, which the DPDP texts set without naming the GDPR. They include consent or a listed use only (sections 4 and 7), parental consent for anyone under 18 (section 9(1)) and word of every breach to each affected person (rule 7). India's digital laws for foreign companies goes through them, with the one-year minimum on logs (rule 8(3)).

Sources

- Ministry of Law and Justice, Act No. 22 of 2023, August 11, 2023: The Digital Personal Data Protection Act, 2023, sections 1 to 17 and 44 and the Schedule
- MeitY, G.S.R. 846(E), November 13, 2025: Digital Personal Data Protection Rules, 2025, rules 3, 6 to 8, 10 to 14, 16 and 23 and the First, Third, Fourth and Seventh Schedules
- MeitY, G.S.R. 843(E), November 13, 2025: Dates on which the provisions of the Digital Personal Data Protection Act, 2023 come into force, paras (a) to (c)
- MeitY, S.O. 5458(E), October 5, 2026 (Gazette of India, October 6, 2026): Digital Personal Data Protection (Removal of Difficulties) Order, 2026, para 2 (PDF, 642 KB)

- MeitY, S.O. 942(E), February 25, 2021: Threshold for a significant social media intermediary

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