October 5, 2026

MEITY

DPDP Act order corrects wording on disability consent and audits

S.O. 5458(E) of October 5, 2026 corrects two wordings in the DPDP Act: section 9(1), on a person with disability, and section 10(2)(c)(ii), on periodic audit.

THE MINISTRY OF Electronics and Information Technology (MeitY) issued the Digital Personal Data Protection (Removal of Difficulties) Order, 2026, S.O. 5458(E), dated October 5, 2026. It appears in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), No. 5248, dated October 6, 2026. The Central Government made it under section 43(1) of the Digital Personal Data Protection Act, 2023 (22 of 2023). Section 43(1) lets it make, by order published in the Official Gazette, provisions not inconsistent with the Act that appear necessary or expedient to remove a difficulty in giving effect to the Act. The order comes into force on the date of its publication in the Official Gazette. Ajit Kumar, Joint Secretary, signed it under F. No. AA-11038/8/2025-CL&ES.

KEY FACTS

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Ministry of Electronics and Information Technology

DOCUMENT

Order S.O. 5458(E), the Digital Personal Data Protection (Removal of Difficulties) Order, 2026

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MeitY · October 5, 2026

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The first change is to section 9(1), on any personal data of a child or a person with disability who has a lawful guardian. Before processing it, a Data Fiduciary must obtain verifiable consent of the parent of such child or the lawful guardian, as the case may be, in such manner as may be prescribed. The order says the omission of the preposition "of" before "a person with disability" creates a disjunction between "any personal data of a child" and "a person with disability", obscuring the intended parallelism between the two categories and the clarity of legal intent. It substitutes the words "child or of a person with disability" for "child or a person with disability".

The second change is to section 10(2), which sets additional obligations of a Significant Data Fiduciary. Clause (b) requires it to appoint an independent data auditor to carry out data audit, and sub-clause (ii) of clause (c) requires "periodic audit". The order says the repetition of the word "audit" creates interpretive ambiguity about the scope of both categories of audit. It records a need to clarify the scope of the compliance obligation and prevent inconsistent application by regulatory or supervisory authorities. It also says, in keeping with the object of the Act, that both references to audit are intended to refer to a "data protection audit" or "data audit". It substitutes "data audit" for "audit" in section 10(2)(c)(ii), which now reads "periodic data audit".

The order calls both difficulties "textual, editorial in nature" and says there is a need to remove them and to rectify the anomalies in section 9(1) and section 10(2)(c)(ii) in accordance with the legislative intent. Under section 43(2) of the Act, no order under section 43(1) may be made after the expiry of three years from the date of commencement of the Act. Section 1(2) reads a provision's reference to the commencement of the Act as a reference to the coming into force of that provision. G.S.R. 843(E) of November 13, 2025 brought section 43 into force on the date that notification was published in the Official Gazette. Section 43(3) requires every order under the section to be laid before each House of Parliament as soon as may be after it is made.

The order amends only these two provisions and changes no date. It does not mention any rules made under the Act, and does not say whether it has been laid before Parliament. It does not say when sections 9 and 10 come into force: under clause (c) of G.S.R. 843(E), sections 7 to 10 come into force eighteen months from the date of publication of that Gazette. The words the order replaces in section 9(1) end with a comma ("child or a person with disability,"), but the Act as

published on August 11, 2023 has no comma after "disability" there. The recitals speak of a "data protection audit" or "data audit"; the new words are "data audit".

Issued by	Ministry of Electronics and Information Technology
Document	Order S.O. 5458(E), the Digital Personal Data Protection (Removal of Difficulties) Order, 2026
Dated	October 5, 2026
Published	Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), No. 5248, October 6, 2026
Takes effect	On the date of its publication in the Official Gazette; the Gazette is dated October 6, 2026
Made under	Section 43(1), Digital Personal Data Protection Act, 2023 (22 of 2023)
Amends	Section 9(1) and section 10(2)(c)(ii) of the Digital Personal Data Protection Act, 2023
Applies to	A Data Fiduciary processing personal data of a child or of a person with disability who has a lawful guardian (section 9(1)); a Significant Data Fiduciary (section 10(2)(c)(ii))
Difficulties removed	The omission of "of" before "a person with disability" in section 9(1); the repetition of the word "audit" in section 10(2); both called "textual, editorial in nature"
Time limit on the power	No order under section 43(1) after the expiry of three years from the date of commencement of the Act (section 43(2)); section 43 came into force on the publication of G.S.R. 843(E) of November 13, 2025
Laid before Parliament	Every order under section 43, as soon as may be after it is made (section 43(3))
File number	F. No. AA-11038/8/2025-CL&ES
Signed by	Ajit Kumar, Joint Secretary

The two changes to the Act

Provision	The Act before the order	What the order substitutes	After the order

Section 9(1)	"... before processing any personal data of a child or a person with disability who has a lawful guardian obtain verifiable consent of the parent of such child or the lawful guardian ..."	For the words "child or a person with disability," the words "child or of a person with disability" (paragraph 2(i))	"... before processing any personal data of a child or of a person with disability who has a lawful guardian obtain verifiable consent of the parent of such child or the lawful guardian ..."
Section 10(2)(c)(ii)	"periodic audit; and"	For the word "audit", the words "data audit" (paragraph 2(ii))	"periodic data audit; and"

The order (PDF, 642 KB)

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