

21– 11 – 2022

News: The Digital Data Protection Bill, 2022

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The bill is driven by 7 principles. They are:

- Firstly, usage of personal data by organisations must be done in a manner that is lawful, fair to the individuals concerned and transparent to individuals.
- Secondly, personal data must only be used for the purposes for which it was collected.
- The third principle talks of data minimization.
- The fourth principle puts an emphasis on data accuracy when it comes to collection.
- The fifth principle talks of how personal data that is collected cannot be “stored perpetually by default” and storage should be limited to a fixed duration.

- The sixth principle says that there should be **reasonable safeguards to ensure there is “no unauthorized collection or processing of personal data”**.
- Seventh principle states that **“the person who decides the purpose and means of the processing of personal data should be accountable for such processing”**.

Key Features of the Digital Personal Data Protection Bill

Data Principal and Data Fiduciary

- **Data Principal** refers to the individual whose data is being collected.
- In the **case of children (<18 years)**, their parents/lawful guardians will be considered their **“Data Principals”**.
- Data Fiduciary is the **entity (individual, company, firm, state etc)**, which decides the **“purpose and means of the processing of an individual’s personal data”**.
- Personal Data is **“any data by which an individual can be identified”**.
- Processing means **“the entire cycle of operations that can be carried out in respect of personal data”**.

Significant Data Fiduciary

- Significant Data Fiduciaries are those who deal with a high volume of personal data. The Union government will define who is designated under this category based on a number of factors.
- Such entities will have to appoint a ‘Data protection officer’ and an independent Data Auditor.

Rights of Individuals

Access to Information

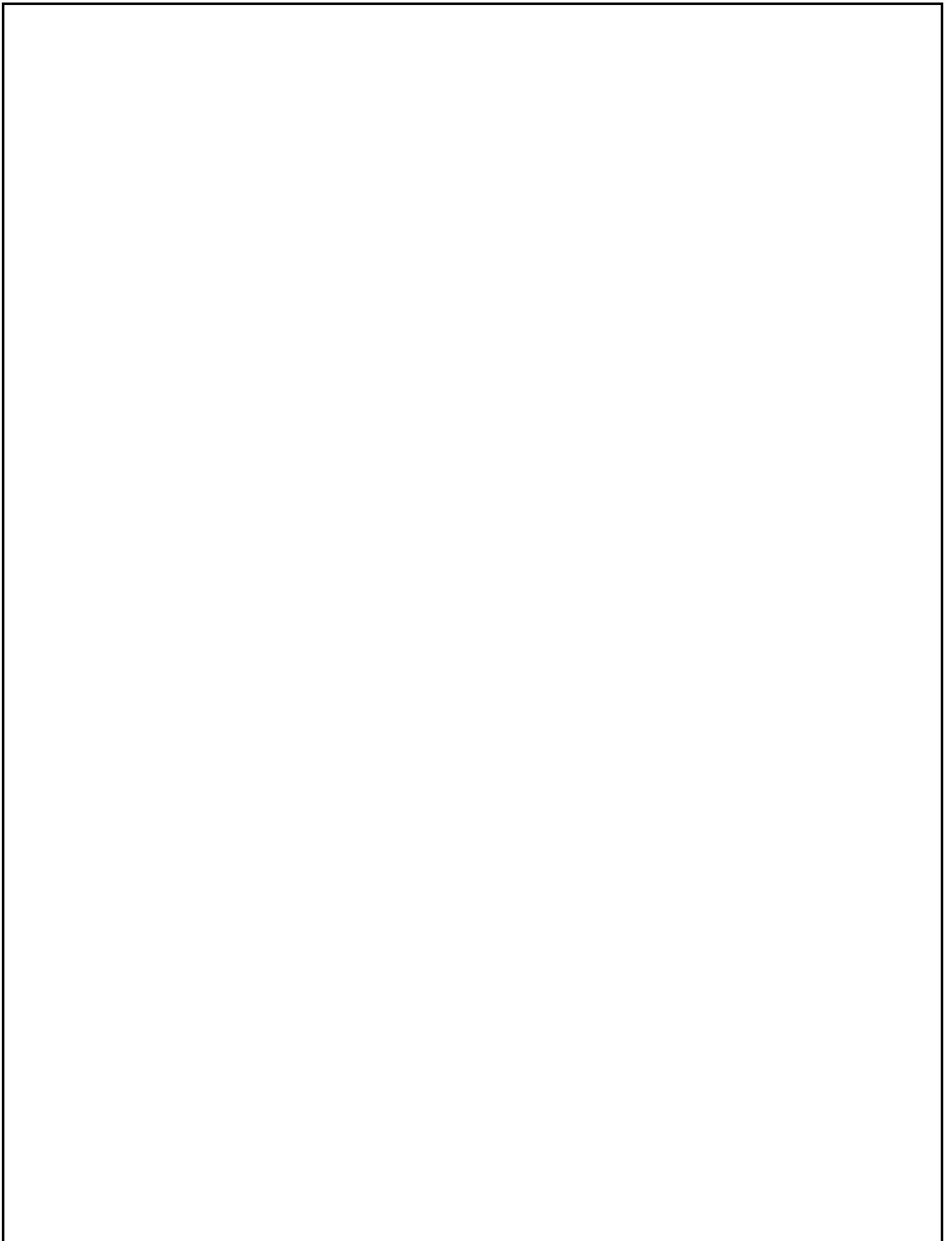
- The bill ensures that individuals should be able to “access basic information” in languages specified in the eighth schedule of the Indian Constitution.

Right to Consent

- Individuals need to give consent before their data is processed and “every individual should know what items of personal data a Data Fiduciary wants to collect and the purpose of such collection and further processing”.
- Individuals also have the right to withdraw consent from a Data Fiduciary.

Right to Erase

- Data principals will have the right to demand the erasure and correction of data collected by the data fiduciary.



Right to Nominate

- Data principals will also have the right to nominate an individual who will exercise these rights in the event of their death or incapacity.

Data Protection Board

- The Bill also proposes to set up a Data Protection Board to ensure compliance with the Bill.
- In case of an unsatisfactory response from the Data Fiduciary, the consumers can file a complaint to the Data Protection Board.

Cross-border Data Transfer

- The bill allows for cross-border storage and transfer of data to “certain notified countries and territories” provided they have a suitable data security landscape, and the Government can access data of Indians from there.

Financial Penalties

For Data Fiduciary

- The bill proposes to impose significant penalties on businesses that undergo data breaches or fail to notify users when breaches happen.
- The penalties will be imposed ranging from Rs. 50 crores to Rs. 500 crores.

For Data Principal

- If a user submits false documents while signing up for an online service, or files frivolous grievance complaints, the user could be fined up to Rs 10,000.

Exemptions

- The government can exempt certain businesses from adhering to provisions of the bill on the basis of the number of users and the volume of personal data processed by the entity.
- This has been done keeping in mind startups of the country who had complained that the Personal Data Protection Bill, 2019 was too “compliance intensive”.
- National security-related exemptions, similar to the previous 2019 version, have been kept intact.
- The Centre has been empowered to exempt its agencies from adhering to provisions of the Bill in the interest 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.