

The draft Digital Personal Data Protection Rules: Summary for Companies

The draft Digital Personal Data Protection Rules (**Draft Rules**) were released for public consultation by the Ministry of Electronics and Information Technology (**MEITY**) on January 03, 2025.

This is a summary of its key impact on private businesses (**Companies**), and how they can prepare for implementation of the Digital Personal Data Protection Act, 2023 (**Act**). A more detailed analysis on the Draft Rules is enclosed.

- 7 Public can comment on the Draft Rules till February 18, 2025. These Draft Rules may be revised based on the comments, and final rules will come into force in two stages. Rules for creating (and operation of) the Data Protection Board (**DPB**) will come into force first. The rest will come into force on a date to be specified in the final rules. Implementation of the final rules seems to be at least six (6) months away.
- 7 Consent, the primary basis for processing personal data by most Companies, must be taken after providing a simple, stand-alone, notice, listing (at minimum) the personal data being processed, specific purposes, and the goods and services being provided. The notice must have means for persons to exercise rights in relation to their data.
- 7 Companies must implement “reasonable security safeguards” to protect personal data, including as a minimum, encryption, masking and access control, technical and organizational measures, as well as measures to identify and address breaches, such as logging, detection, and redundancy measures. Companies must contract with their data processors to require they maintain these measures as well.
- 7 All data breaches should be notified to each affected person, and the DPB “without delay”. A more extensive report needs to be made within seventy-two hours.
- 7 Companies must record verifiable consent of parents, before processing personal data of any person below the age of 18 (eighteen). “Reliable” proof of age or identity maintained with Companies, details voluntarily submitted to them or as provided by government-authorized entities and DigiLocker service providers, may be used for verification.
- 7 MEITY will designate officers to identify and notify Significant Data Fiduciaries under the Act. These Companies will have additional obligations, including completing impact assessments and audits every twelve months from the date they are notified. These Companies must observe measures to ensure that any algorithmic software they deploy does not pose a risk to the rights of data principals.

- Under the Draft Rules, SDFs may be required to limit transferring certain types of personal data outside India. Restrictions around cross-border data transfers may also be imposed where such transfers could result in access by foreign states or entities controlled by them.
- Requirements are specified for Companies which wish to become consent managers under the Act. They will need to obtain a registration after meeting certain criteria and operate platforms that enable individuals to manage their consents and data.

Read together with the Act, the Draft Rules provide important guidance to help Companies prepare for the implementation of the Act, which may take place in as little as six (6) months. While the Draft Rules may be further refined following comments, Companies will be well advised to prepare by participating in the consultation process, undertaking data flow mapping, reviewing internal and external processes, and revising their policies, practices and documentation accordingly.

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