

India's Digital Personal Data Protection Act 2023 ("DPDPA") FAQs

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1. What is the DPDPA?

The DPDPA is India's comprehensive data protection law which was enacted by the Indian Parliament in August 2023. However, the DPDPA has not come into force as of now, and the law empowers the Government to appoint the dates from which it shall come into force. It is expected that the Government will implement the DPDPA within the next 6-12 months from October 2023.

The DPDPA would be administered by the Data Protection Board of India ("DPBI") (proposed to be established under the DPDPA). However, the DPBI solely has adjudicatory powers and all rule making powers under the DPDPA have been vested on the Government.

2. What Is the Territorial Scope of the DPDPA?

The DPDPA applies to the processing of digital personal data within the territory of India. The DPDPA also applies to the processing of personal data outside the territory of India, if such processing is for offering goods or services to data principals (akin to a data subject under the GDPR) within the territory of India.

Almost all of the substantive provisions (except for the obligation to implement reasonable security safeguards to prevent a data breach) under the DPDPA, however, do not apply to the scenario where personal data of data principals not within the territory of India is processed by a data processor in India on behalf of a data fiduciary (akin to a data controller under the GDPR) located outside of India and pursuant to a cross border contractual arrangement.

3. What does it mean to process Personal Data?

The DPDPA defines personal data to mean any data about an individual who is identifiable by or in relation to such data. "Processing" of personal data, is defined to mean a wholly or partly "automated" operation or set of operations performed on digital personal data, and includes operations such as collection, recording, organisation, structuring, storage, adaptation, retrieval, use, alignment or combination, indexing, sharing, disclosure by transmission, dissemination or otherwise making available, restriction, erasure, or destruction.

The DPDPA defines "automated" to mean any digital process capable of operating automatically in response to instructions given or otherwise for the purpose of processing personal data.

4. Who is a data fiduciary and a data principal?

The concept of a "data fiduciary" under the DPDPA is similar to a "data controller" under the GDPR. The DPDPA defines a data fiduciary to mean a person who alone, or in conjunction with other persons, determines the purpose and means of processing personal data. Likewise, the concept of a "data processor" under the DPDPA is similar to a "data processor" under the

GDPR, and a data processor is defined to mean any person who processes personal data on behalf of a data fiduciary.

A data fiduciary is required to comply with the DPDPA in respect of processing personal data within India or outside India (if such processing outside India is in connection with offering goods or services to data principals within India), unless they fall within a category of data fiduciaries that are exempted from the application of the DPDPA. The said compliance requirements includes, among others, the obligation to process personal data in accordance with the grounds prescribed under the DPDPA, facilitate exercise of rights granted to data principals, implement reasonable security safeguards to prevent a data breach, and report personal data breaches. Further, the data fiduciary can appoint a data processor solely under a valid contract.

The DPDPA does not impose any specific obligations on data processors, and the data fiduciary is responsible for the compliance with the DPDPA in respect of any processing undertaken by a data processor on its behalf.

An entity can be a “data fiduciary” with respect to the personal data it processes and be bound by data protection obligations under the DPDPA, while also being considered a “data processor” with respect to the personal data that it processes on behalf of another organization. An entity can also be a data fiduciary with respect to personal data that it processes on behalf of another organization if the processing entity determines the purposes and means for processing such personal data.

5. What rights do Individuals have under the DPDPA and how will Autodesk support these rights?

The DPDPA grants the following rights to a data principal:

- i. right to obtain from the data fiduciary: (i) a summary of their personal data being processed and the processing activities undertaken by the data fiduciary with respect to such personal data; (ii) the identities of all other data fiduciaries and data processors with whom the personal data has been shared by such data fiduciary along with a description of the personal data so shared; and (iii) any other information related to the personal data of such data principal and its processing, as the government may prescribe.
- ii. right to correction, completion, updating, and erasure of personal data.
- iii. right to readily available means of grievance redressal.
- iv. right to nominate any other individual who shall exercise the rights of the data principal in the event of death or incapacity of the data principal.
- v. right to withdraw consent, when processing is based on the consent of the data principal.

Note: The rights under (i) and (ii) above are available only where processing is based on the consent of the data principal or where the data principal voluntarily provides her personal data on her own initiative for a specified purpose.

6. Does the DPDPA require personal data to stay in India?

There are no data localisation restrictions under the DPDPA. The DPDPA empowers the government to notify a blacklist of countries to which transfer of personal data would be restricted, however, no such notification has been issued as of now.

7. Does the PDPA create special rules for minors?

Yes, the DPDPA defines a minor/child as a person who is less than 18 years old. The DPDPA requires that the verifiable consent of the parent must be obtained for processing personal data of a child. A data fiduciary is prohibited from undertaking any processing of personal data that is likely to cause a “detrimental effect on the well-being of a child”. Further, unless exempted by the government, a data fiduciary is prohibited from engaging in tracking or behavioural monitoring of children, or targeted advertising directed at children.

8. How will Autodesk demonstrate compliance with the DPDPA?

We are committed to practicing transparency in how we handle personal information. We conduct internal assessments to maintain our obligations under the DPDPA. Further, we maintain ISO certifications for the operational environment of certain cloud products and have undergone SOC 2 compliance audits for select cloud products. For additional information, please visit our [Trust Center](#). You can find our updated Privacy Statement for [here](#) and contact our Data Protection Officer by emailing DPO@Autodesk.com.