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DPDP Act 2023 Enforcement – First Penalties under India’s New Data Law: What Startups Got Wrong in Year 1

- *Nagashree R*

The Digital Personal Data Protection Act, 2023 (DPDP Act), is India’s first comprehensive data privacy legislation, a significant step towards recognising privacy as a fundamental right by imposing obligations on platforms that process digital personal data. It was enacted on 11th August 2023 and published in the Gazette of India. The DPDP Rules, 2025, were notified by the Ministry of Electronics and Information Technology (MeitY) on 13th November, 2025 (G.S.R. 846(E)).

The implementation began immediately, and the provisions related to establishing the functioning of the Data Protection Board of India (DPBI) became effective on 13th November, 2025. The provision of the Consent manager will take effect one year later (i.e., November 13, 2026), and complete obligations will apply from 13th May, 2027 (18 months from notification), which gives a preparation window of 18 months.

As of mid 2026, DPBI is operational, and a framework exists with the complaint mechanisms, but any major penalties have not been imposed yet. The scrutiny on the organizations has been growing as in the early enforcement stages. In further days, penalties can reach up to 250 crore rupees per violation.

Penalty Structure under the DPDP Act

Penalties in DPBI are determined under Section 33 after an inquiry, based on the nature, gravity, and duration of the breach; or the kind of personal data affected; impact on data principles; and the fiduciary’s conduct.¹

Key penalties specified under the Act are:

1. Up to 250 crore rupees on failure of implementation of reasonable security to prevent personal data breach under Section 8(5)²
2. Up to 200 crore rupees on failure to notify the DPBI and the affected data principles of a personal data breach under Section 8(6)³.
3. Up to 200 crore rupees on breach of obligations related to children’s data under Section 9.⁴

¹ Digital Personal Data Protection Act, 2023, § 33 & Schedule.

² Id. § 8(5).

³ Id. § 8(6).

⁴ Id. § 9.

4. Up to 150 crore rupees for Non Compliance with additional obligations by Significant Data Fiduciaries (SDFs) under Section 10.⁵
5. Up to 50 crore rupees on all other violations line consent, notice, rights exercise and others.
6. Up to 10 thousand rupees on false complaints by data principals.

The DPBI has all the authority to issue directions, impose penalties, accept voluntary undertakings after providing opportunity to be heard. Appeals lie to the Telecom Disputes Settlement and Appellate Tribunal (TDSAT)

What start-ups got wrong in Year 1:

Common Compliance Pitfalls

After the Rules notifications from late 2025 to mid 2026, startups in India from fintech, health tech, edtech, e-commerce, and SaaS treated DPDP compliance as a one-time legal exercise rather than an operational requirement.

Copy-Paste Privacy Policies and Inadequate Notices

Standard formats, boilerplate documents, which lacked clear, standalone, itemized privacy notices detailing specific data collected, uses, and processing details as required. Policies concealed within service agreements, missing simple wordings and clarifications, invalidate proper approval, which must be voluntary, particular, knowable, without restriction, and explicit.

Defective approval framework

Default checked options, combined approvals for disconnected objectives, and the absence of simple revocation methods or procedures were common. Many startups lacked verifiable records of voluntary approvals and methods of data principals to implement entitlements. Children's Data obligations, confirmable guardian approval, and restrictions on surveillance for targeted ads were commonly neglected.

Neglecting data inventory and third-party risks

Failure in keeping complete documentation of data flows, data repositories, or data handlers. Deficient vendor agreements and loopholes in international cross-border data flows with respective safeguards via cloud services or third-party applications created major threats.

Insufficient protection measures and incident handling strategies

Many startups did not adopt "reasonable" technological and organizational controls. Lack of breach management protocols with timely reporting procedures to the DPBI and users was a major loophole, particularly in the case of sensitive medical and monetary informations.

Underrating SDF responsibilities

⁵ Id. § 10.

Fast-growing startups having huge quantities of confidential information were all surprised by possible classifications, triggering mandates for a Data Protection Officer, independent audits and Data Protection Impact Assessments with no scale-related reliefs.

Presuming “We’re small, so minimal danger.”

The Act covers all data controllers handling digital personal data of Indian residents with a few exceptions. Initial grievances or suo motu actions by the DPBI are still feasible even before complete enforcement or implementation.

Lessons and Path Forward for Startups

Year 1 showed the DPDP adherence demands embedding “privacy by design” into solutions, engineering, and functions. Suggest advice includes performing information review, maintaining Records of Processing Activities, implementing granular and revocable approval systems with independent disclosures notices, designating a Data Protection Officer, creating incident reporting procedures, guaranteeing processor agreements comply with the law, conducting Data Protection Impact Assessments and audits, and training teams on recording adherence activities

Proactive spending on consent management platforms, technological simplification, and cybersecurity coverage is becoming a strategic coverage with improved customer confidence

Conclusion

While the DPBI strengthens its capabilities and complete implementation nears by May 2027, initial fines are expected to focus on major contraventions, unreported events, failure in minor data obligations or systemic security failures. Emerging companies that consider the readiness phase as non-essential or optional encounter significant dangers of 50 to 250 crore rupees fines, reputational harm, and functional halts. Anticipatory embedding of regulatory adherence will reduce these risks and simultaneously create long-lasting, reliable enterprises within India’s digital marketplace.

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