

**Bill No. XXIII of 2014**

**THE PERSONAL DATA PROTECTION BILL, 2014**

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**BILL**

*to provide for protection of personal data and information of an individual collected for a particular purpose by one organization, and to prevent its usage by other organization for commercial or other purposes and entitle the individual to claim compensation or damages due to disclosure of personal data or information of any individual without his consent and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Personal Data Protection Act, 2014.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

5 **2.** In this Act, unless the context otherwise requires,—

(a) “Appropriate Government” means in case of a State, the Government of that State and in other cases, the Central Government;

Short title,  
extent and  
Commence-  
ment.

Definitions.

(b) "Data Controller" means Data Controller appointed under section 6.

(c) "personal data" means information or data which relate to a living individual who can be identified from that information or data whether collected by any Government or any private organization or agency;

(d) "prescribed" means prescribed by rules made under this Act; 5

(e) "processing" means obtaining, recording or holding the personal data or information of an individual and carrying out any operation on the information including alternation, disclosure, transmission, dissemination and destruction.

3. The personal data of any person collected for a particular purpose or obtained in connection with any transaction, whether by appropriate Government or by any private organization, shall not be put to processing without the consent of the person concerned: 10

Provided that personal data of any person may be processed for any of the following purposes:—

(a) the prevention or detection of crime;

(b) the prosecution of offenders; and 15

(c) the assessment or collection of any tax or duty:

Provided further that no consent of the individual shall be required if the personal data details of the individual are obtained through sources which have been made public.

Personal data not to be disclosed. 4. The personal data of any person collected by an organization whether government or private, shall not be disclosed to any other organization for the purposes of direct marketing or for any commercial gain: 20

Provided that personal data of any person may be disclosed to charity and voluntary organizations after obtaining prior consent of the person.

Compensation for damages in case of disclosure of data information. 5. Every person whose personal data or details have been processed or disclosed for direct marketing or for any commercial gain without consent shall be entitled to compensation for damages in such manner as may be prescribed. 25

Appointment of Data Controller. 6. (1) The appropriate Government shall, by notification in the Official Gazette, appoint as many Data Controllers as may be necessary for over viewing the complaints relating to processing and disclosing of personal data and claim for compensation: 30

Provided that there shall not be more than three Data Controllers in a State or a Union Territory.

(2) The terms and conditions of service of the Data Controller shall be such as may be prescribed.

(3) The appropriate Government shall provide such number of officers and staff as may be necessary efficient functioning of the Data Controller. 35

(4) The procedure for appointment of the Data Controllers, their powers and functions shall be such as may be prescribed.

Obligation on organization collecting personal data. 7. Every organization, whether Government or private, engaged in the commercial transaction and collection of personal data of persons shall:— 40

(i) report to the Data Controller the type of personal data and information being collected by them and the purpose for which it is being or proposed to be used;

(ii) take adequate measures to maintain confidentiality and security in the handling of personal data and information; and

(iii) collect only such information that is essential for completion of any transaction with the individual.

5 **8. The appropriate Government shall, after due appropriation made in this behalf, provide such sums of money as it may think fit for being utilized for the purpose of this Act.**

Appropriate Government to provide money.

9. Whoever contravenes or attempts contravene or abets the contravention of the provisions of this Act shall be punishable with imprisonment for a term, which may extend to 10 three years or with fine, which may extend upto ten lakh rupees or with both:

Penalty.

Provided that the compensation for damages claimed under section 5 shall be in addition to the fine imposed under this section.

10 **10.** Where a person committing a contravention of any of the provisions of this Act or of any rule, made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Offence by companies.

20 Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

*Explanation.*— For the purpose of this section:—

(i) "Company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

25 2 of 1974 **11.** All offences under this Act shall be tried summarily in the manner prescribed for summary trial under the Code of Criminal Procedure, 1973.

Summary trial.

30 **12.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

**13.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to protection of personal data.

Savings.

35 **14.** The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

#### STATEMENT OF OBJECTS AND REASONS

In our country, at present, there is no law on protection of personal information and data of an individual collected by various organizations. As a result many a time, personal information of an individual collected for a particular purpose is misused for other purposes also, primarily for direct marketing without the consent of the individual.

The personal data of an individual collected by an organization is at times sold to other organizations for paltry sum in connivance with the employees of the organizations. These organizations with the competition to out do each other enter into the privacy of individual by making direct marketing calls. There has to be some internal confidentiality standard within the system so that personal information of an individual may not be transferred to others, which, at times, causes a lot of distress and embarrassment.

In many countries this right of individual has been recognized as basic civil right as an extension of right to privacy and laws have been enacted to protect the personal data of individuals. Accordingly, there is a need to have a law in our country also for protection of personal information to ensure that personal information of an individual collected for a particular purpose should be used for that particular purpose only and is not revealed to others for commercial or other purposes.

Hence this Bill.

VIJAY JAWAHARLAL DARDA

## FINANCIAL MEMORANDUM

Clause 6, of the Bill empowers the appropriate Government to appoint Data Controllers for over viewing the complaints relating to processing and disclosing of personal information and claim for compensation. Clause 8 provides that appropriate Government shall make the funds available for being utilize for the purposes of this Act. Since the expenditure in respect of UTs shall be borne out by Central Government, the Bill if enacted will involve expenditure from the Consolidated Fund of India to the tune of rupees one crore per annum.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for the purposes of this Bill. The rules will relate to matter of details only, the delegation of legislative powers is therefore of normal character.

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*(Shri Vijay Jawaharlal Darda, M.P.)*