

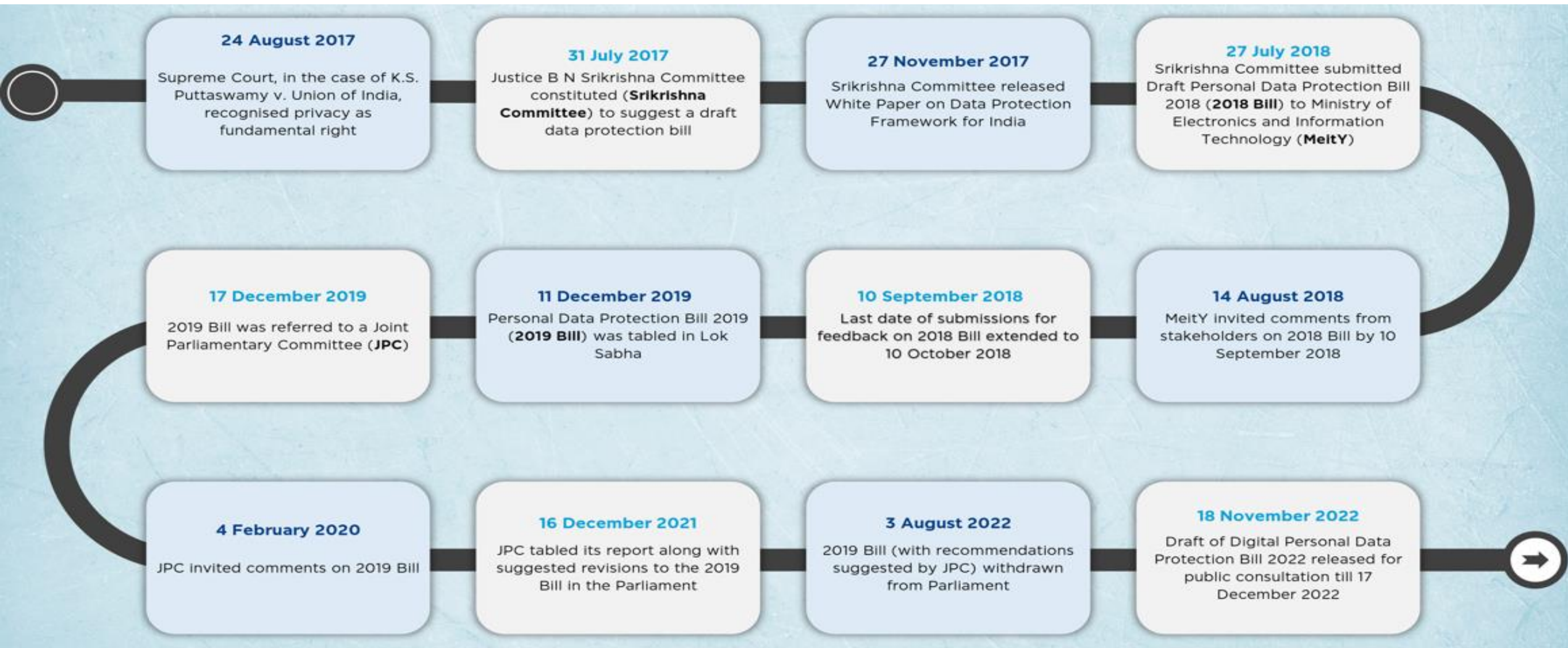


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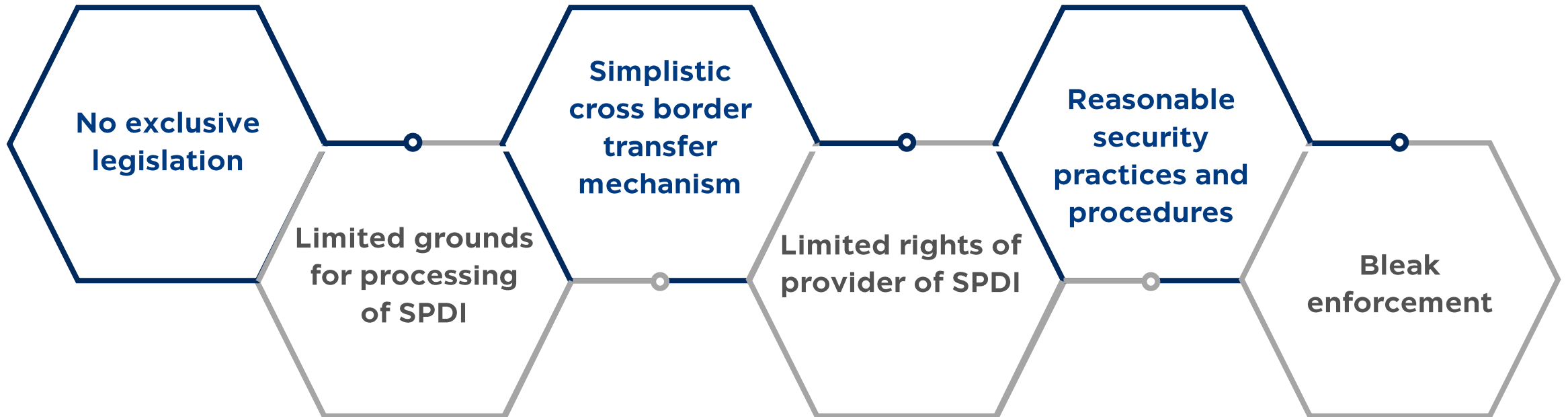
India's new data privacy &
protection regime
**Draft Digital Personal Data
Protection Bill 2022**



Chronology



Present Data Protection Legal Framework in India



Digital Personal Data Protection Bill 2022 | Applicability

Applicable

WITHIN THE TERRITORY OF INDIA

- where personal data is collected online
- where personal data is collected offline and digitized

OUTSIDE THE TERRITORY OF INDIA

Processing is in connection with:

- any profiling of Data Principals within the territory of India
- any activity of offering goods or services to Data Principals within the territory of India

Not Applicable

- non-automated processing of personal data
- offline personal data
- personal data processed by an individual for any personal or domestic purpose
- personal data about an individual that is contained in a record that has been in existence for at least 100 years

Grounds for processing

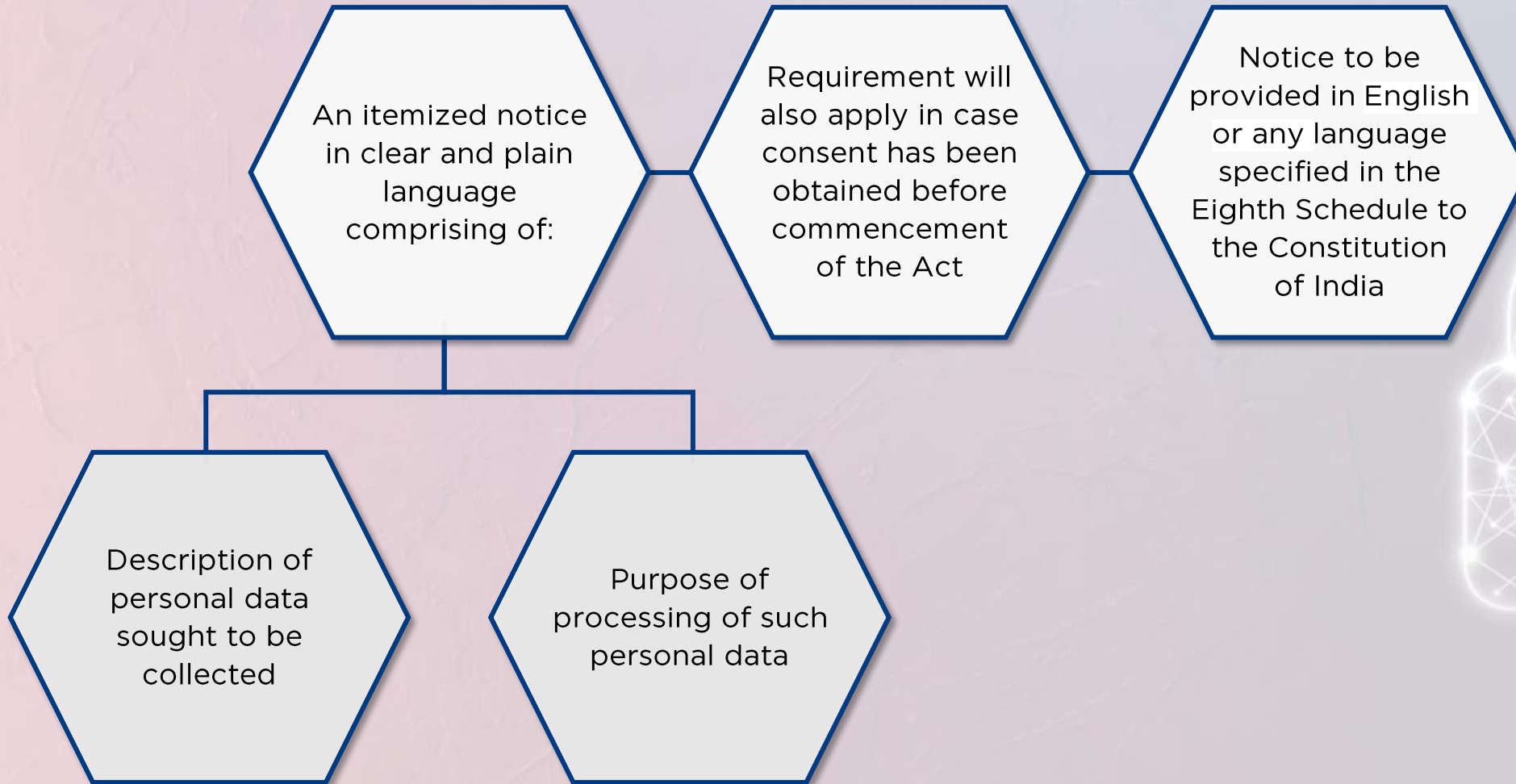
Consent

- Freely given, specific, informed and unambiguous indication
- “Clear affirmative action”
- Clear and plain language - option to access consent request in English or any language specified in the Eighth Schedule to the Constitution of India
- Right to withdraw consent and ease of withdrawal
- Consent Manager
- Performance of contract cannot be made conditional on consent for processing of personal data not necessary for that purpose
- Proof of notice and consent

Deemed consent

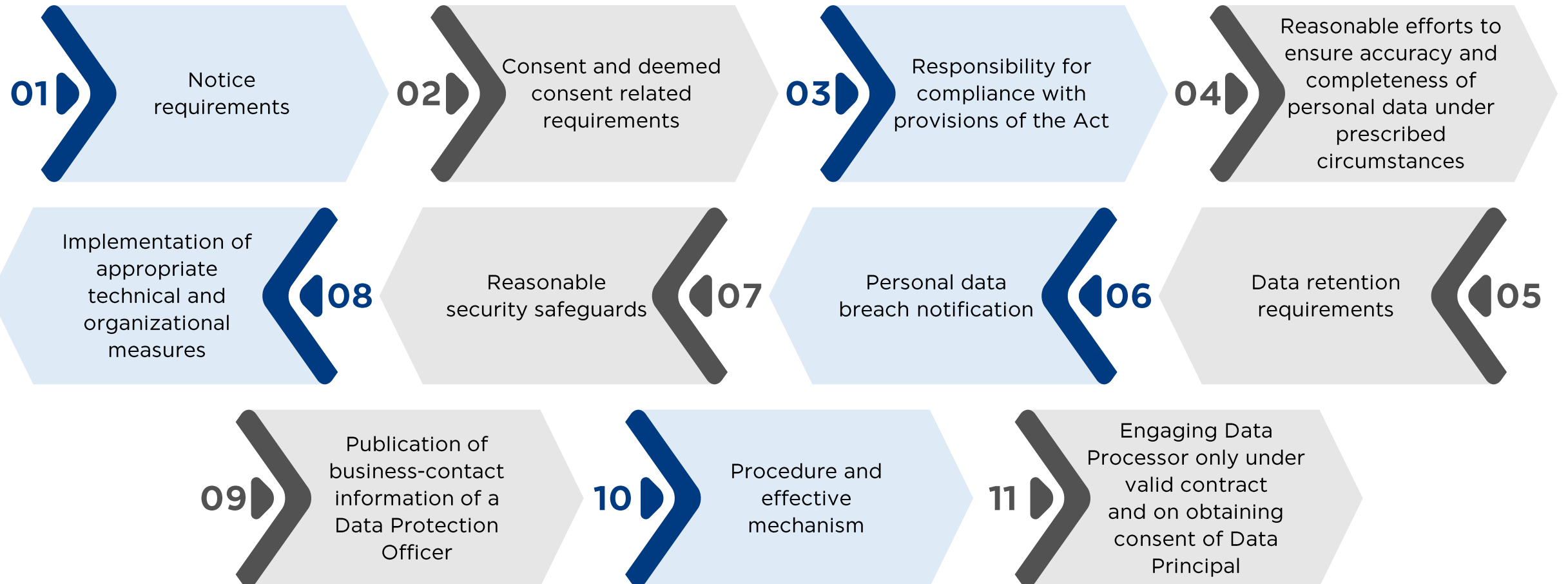
- Reasonable expectation of consent
- By ‘State’ - Performance of function under law, provision of any service or benefit to the Data Principal, issuance of any certificate, license, or permit for any action or activity of the Data Principal
- Compliance with any judgment or order issued under any law
- Responding to certain medical emergencies
- Providing medical treatment of health services in specific circumstances
- Certain purposes related to employment
- Public interest
- For “fair and reasonable purpose” in certain cases

DPDP Bill | Notice



DPDP Bill | Key compliances for data fiduciaries

Data fiduciary means “any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data”.



DPDP Bill | Additional compliances for significant data fiduciaries

Certain Data Fiduciaries may be classified as '**Significant Data Fiduciary**' based on factors such as the volume and sensitivity of personal data, risk of harm, potential impact on national security, sovereignty and integrity, etc.

Additional Obligations



Appoint a Data Protection Officer based in India who shall be responsible to the Board of Directors or similar governing body of SDF

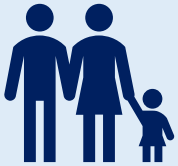


Appoint an Independent Data Auditor to evaluate compliance of SDF with provisions of the Act



Undertake measures including Data Protection Impact Assessment and periodic audit in relation to the objectives of the Act

DPDP Bill | Additional obligations for children's data



Obtain verifiable parental consent



No processing that is likely to cause 'harm' to child

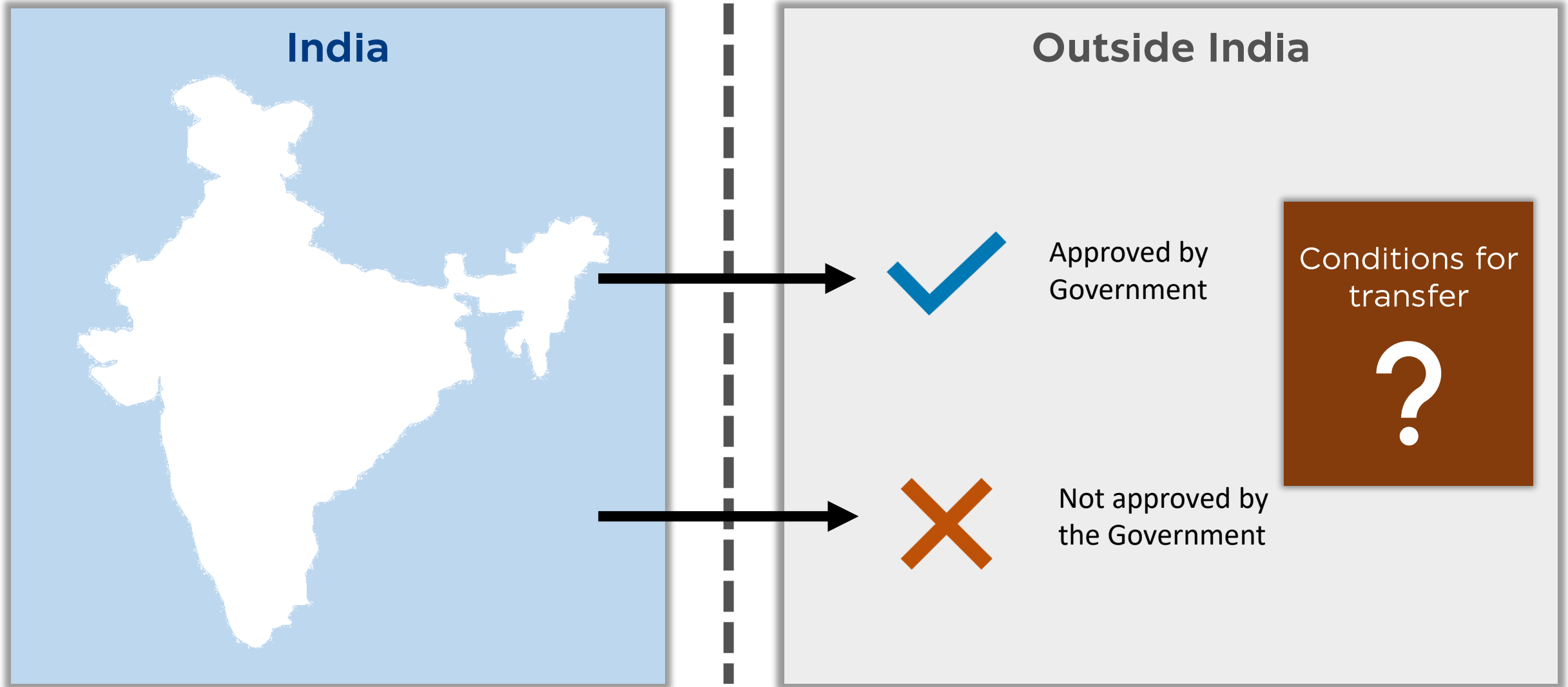


No tracking or behavioural monitoring of children or targeted advertising directed at children



Exempted purposes for processing children's data

DPDP Bill | Data transfer



DPDP Bill | Rights and duties of data principals

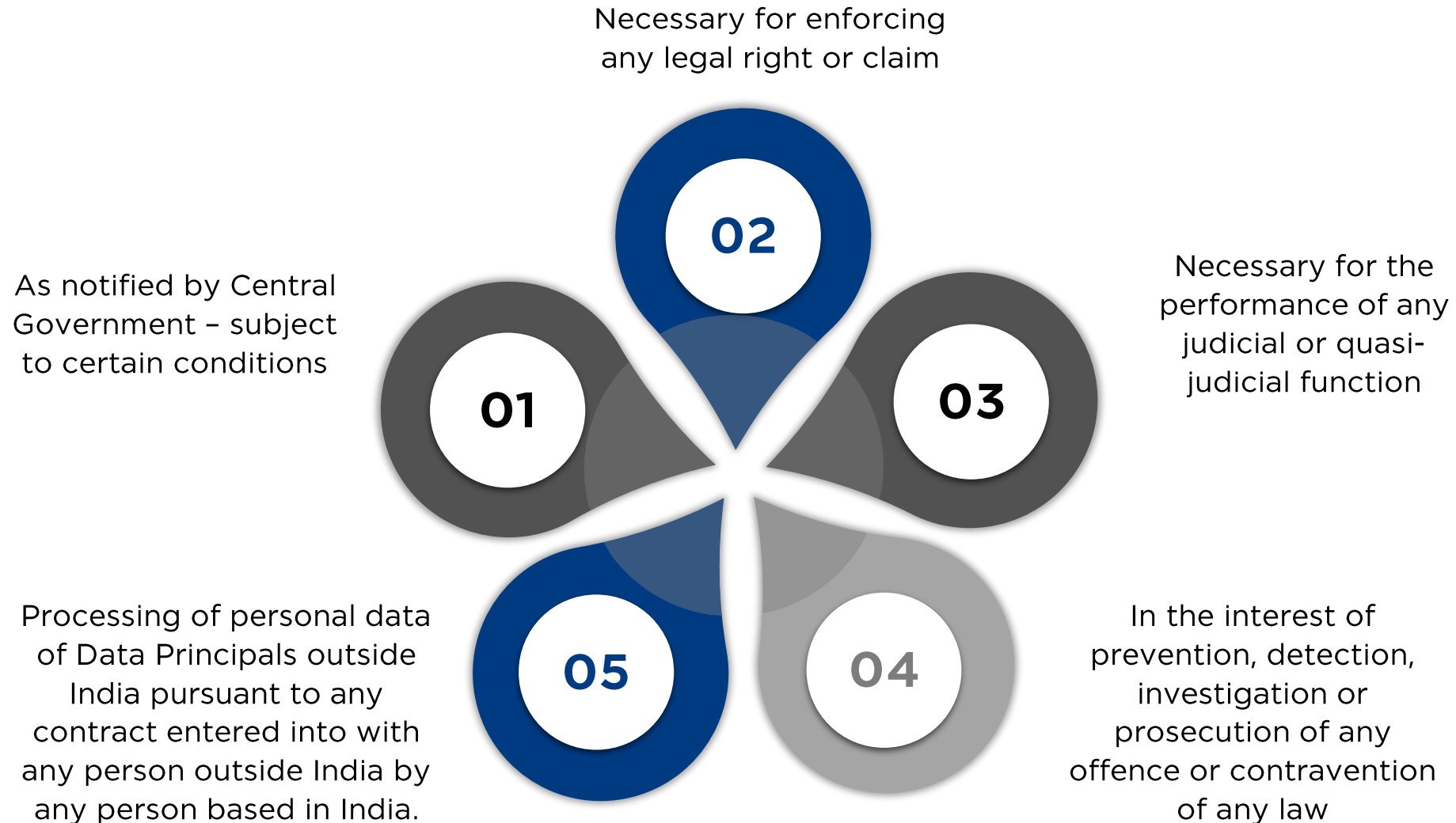
Rights

- Right to information about personal data
- Right to correction and erasure of personal data
- Right of grievance redressal
- Right to nominate in case of death/incapacity

Duties

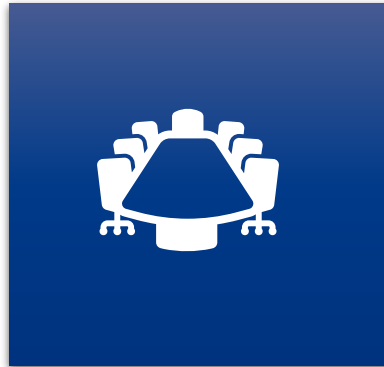
- No registration of false or frivolous grievance or complaint
- No furnishing of any false particulars or suppressing any material information or impersonating another person
- Furnishing only such information as is verifiably authentic while exercising the right to correction or erasure

DPDP Bill | Exemptions



DPDP Bill | Oversight mechanism

Data protection board



Review and appeal mechanism



Alternate dispute resolution

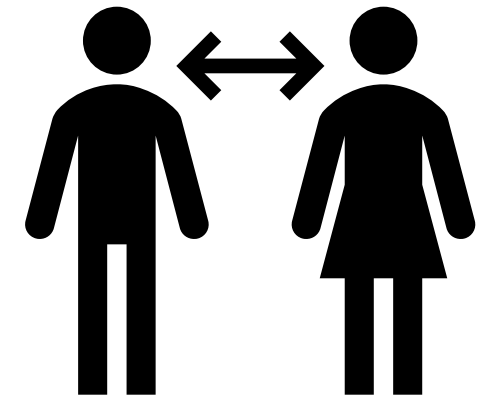
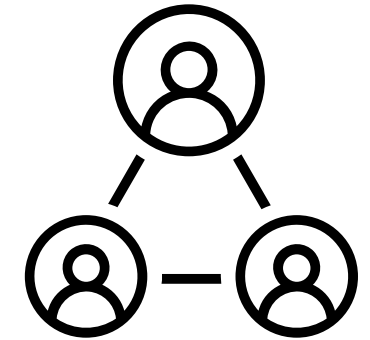


Voluntary undertaking



DPDP Bill | Penalties

Category	DPDP Bill
Penalties / Fines	<p>Total maximum financial penalties up to INR 500 crores (approx. USD 60 million) for each instance</p> <p>Specific maximum financial penalties for certain types of contraventions upto INR 250 crores (approx. USD 30 million)</p>
Criminal Offence	No
Compensation	No



Preparing for the new regime – Key steps

Key takeaways from the DPDP Bill

- 01** Scope & Applicability
- 02** Grounds for processing: consent and deemed consent
- 03** Notice requirements
- 04** Emphasis on protection of children's data

- Compliances for Data Fiduciaries/
Significant Data Fiduciaries **05**
- Rights and duties of Data Principal **06**
- Exemptions under specific grounds **07**
- New enforcement/ oversight
mechanism and penalty structure **08**

DPDP Bill | Impact on businesses



Preparing early for the new law is the key

01

Implementing robust data processing and breach management/handling policies

02

Safeguarding user privacy

03



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