

Cos failing to comply with Aadhaar Act norms may be liable for up to Rs 1-cr fine

PRESSTRUST OF INDIA
NEW DELHI, 01 JANUARY

The government has proposed a penalty of up to Rs 1 crore on entities that violate the provisions of the Aadhaar Act, with an additional fine of up to Rs 10 lakh per day in case of continuous non-compliance, sources said.

Amid privacy concerns over Aadhaar, amendments have been planned in the Act, under which the government also proposes to arm the Unique Identification Authority of India (UIDAI) with more powers, similar to that of regulators, sources said.

The Aadhaar Act, at present, does not empower the body to take enforcement action against errant entities in the Aadhaar ecosystem.

Children, holding Aad-

haar, will have the option of cancellation of the 12 digit biometric identifier within a period of six months of attaining 18 years of age.

The consent of a parent or guardian will be must for enrolling a child, while no child will be denied any subsidy, benefits or services for lack of Aadhaar, as per the proposed changes.

The proposed amendments also make provision for 'Virtual ID' and voluntary and offline modes of using Aadhaar. A bill to amend the Aadhaar Act, the Indian Telegraph Act and the Prevention of Money Laundering Act is listed for introduction in the Lok Sabha on Wednesday.

Besides, the government also plans to set up a UIDAI fund under the Aadhaar Act and has proposed that the authority be exempt from



taxes on income.

Mooting fines for violation of the Aadhaar Act, the draft provisions say that a new section will be added to provide for civil penalties which may extend to Rs 1 crore for each contravention on failure to comply with provisions of the Act, rules, regulations and directions by any entity in the Aadhaar ecosystem.

The Aadhaar ecosystem includes enrolling agencies, registrars, requesting entities, offline verification seeking entities and any other entity or group as may be specified by regulations.

It further mooted an additional penalty of up to Rs 10 lakh for each day of continuing non-compliance after the first contravention.

Punishment for unauthorised access to the Central Identities Data Repository as well as data tampering is proposed to be extended to 10 years each from the current three years.

According to sources, the government is keen to give UIDAI regulatory powers, considering the fact that over 122 crore Aadhaar numbers have been issued across the country but the authority does not currently have pow-

ers to take enforcement actions against errant entities.

There will be a provision to file appeal before the TDSAT (Telecom Disputes Settlement and Appellate Tribunal), and against the orders of TDSAT an appeal can be made in the Supreme Court.

The government also plans to amend the Telegraph Act and the Prevention of Money Laundering Act (PMLA) to provide for voluntary use of Aadhaar for obtaining SIMs and opening bank accounts.

The Supreme Court, in a landmark verdict in September last year, had upheld the constitutional validity of 'Aadhaar' but limited the scope of the controversial biometric identity project, ruling it is not mandatory for bank accounts, mobile connections or school admissions.

Holding there was nothing in the Aadhaar Act that violates right to privacy of an individual, the SC had cleared the use of Aadhaar (world's largest biometric ID programme) for welfare schemes. The court had held that Aadhaar will remain mandatory for filing of Income Tax (IT) returns and allotment of Permanent Account Number (PAN) but struck down Section 57 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016 that permitted private entities like telecom companies or other corporate to avail of the biometric Aadhaar data.

Following this, the Cabinet last month approved amendments to Aadhaar Act, the Indian Telegraph Act and the Prevention of Money Laundering Act.