



SUBJECT: NEW PROTECTION OF PRIVACY REGULATIONS

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The Knesset adopted the Protection of Privacy (Data Security) Regulations – 2017 (hereinafter, the "**Regulations**") in accordance with the Protection of Privacy Law – 1986 (the "**Law**"). The Regulations had been drafted by the Israeli Law, Information and Technology Authority ("ILITA") in collaboration with the Counseling and Legislation Division of the Department of Justice. The Regulations were approved after lengthy discussions and debate, and after considering the public's comments on the matter which were received in response to a position paper distributed by ILITA.¹

The Protection of Privacy (Conditions of Holding and Saving Data and Arrangements for the Transfer of Information between Public Bodies) Regulations - 1986 and the Law, regulate the security of computerized data until the Regulations will come into effect on April 2, 2018 (i.e. one year after their publication). The purpose of the Regulations is to expand upon the old regulations in order to prevent the misuse of data. The new regulations are intended to realize the objectives of the original law and include a number of innovations, the most significant of which are intended to achieve the purpose of protecting the privacy of registered users in a computerized database.²

First, the structure of the selected regulations is modular so that the more "meaningful" the database, the greater the protection required for the data supplier. This is a concept derived from the principle of information security and accepted worldwide.³ According to that principle, the databases are characterized as those of basic, medium and high security.

Second, it was determined that the responsibility for compliance with regulations rests with the owner and manager of the database.⁴ In addition, the relationship between the information security officer and other senior officials was determined. For example, it was determined that the Commissioner would be subordinate to a senior officer⁵ and that the database owner should allocate resources for fulfilling the Commissioner's function.⁶

Third, in light of the "Saudi hacker affair", in which Israeli databases containing credit card numbers were exposed and revealed, the need for broader protection of the individuals in the database was

¹ <http://www.justice.gov.il/Publications/News/Pages/Tyota.aspx>

² In there

³ In there

⁴ Article 19 of the Regulations.

⁵ Article 3 of the Regulations.

⁶ Article 3(6) of the Regulations.



strengthened.⁷ Therefore, the protection framework was extended from information security events to regulations, even at the price of opening many claims against database owners and managers due to security incidents.

Among other things, according to the Regulations, the owners of a database are responsible for documenting security incidents, establishing procedures for the handling of such incidents,⁸ and must report to the Registrar of Databases, regarding severe security incidents, security events and steps taken to prevent them.

Beyond the expansion of the liability of the database owner and manager, the Regulations also expand the registrar's authority, so that he can exempt (or impose) the Regulations on certain databases.⁹ This particular extension of authority raised concerns about granting too much authority to the registrar. The Attorney General Elazar Stern responded however: "The Registrar has no authority to change the law regarding databases in general, but rather particular databases. On the face of it, with regard to any authority given to an administrative body, it can be argued that there is a suspicion of abuse, so that it is a question that exists every day in the granting of such powers. But our assumption is that an administrative authority is functioning properly and according to the provisions of the law".¹⁰

In conclusion, it seems that the Regulations constitute a significant breakthrough in relation to the legislation that existed until now with respect to the protection of privacy in Israel.

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***This article is not to be considered as a legal opinion.
For legal advice, we suggest that you contact legal counsel directly.***

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⁷ From the explanatory notes to the Protection of Privacy Bill (Amendment - Report on Hacking a Database), 2012

⁸ Article 11 of the Regulations.

⁹ Article 20 of the Regulations.

¹⁰ <http://main.knesset.gov.il/News/PressReleases/Pages/press21317m.aspx>.