

Law No. 151 of 2020 promulgating the Personal Data Protection Law

Source: Law No. 151 of 2020, issue No. 28 (bis) E of the Official Gazette dated 15 July 2020.

- This Law comes as a legislative precedent for protecting citizens' personal data, as Article (2) of this Law stipulates that “*Personal data may not be collected, processed, disclosed or revealed by any means except with the express consent of the relevant person with the data, or in the legally authorized cases*”.

- **Conditions for personal data collection, processing and retaining**

The Law specified in Article (3) the conditions that must be fulfilled for the collection, processing and retaining of personal data, which are as follows:

1. To collect personal data for legitimate, specific and declared purposes of the relevant person.
2. To be correct, sound and secure.
3. To be processed in a legitimate and appropriate manner.
4. Not to be kept for a period longer than the period necessary to fulfill their intended purpose.

- **Obligations of the controller and the processor**

Article (4) of the Law specifies the obligations of the controller in obtaining personal data, for example:

1- Not to obtain the personal data of the relevant person with the data except after obtaining his consent or in the legally authorized cases. 2-Setting a process, method and standards of processing according to the specified purpose. 3- Erasing the obtained personal data upon the expiration of its specified purpose. 4-To correct any error in the personal data as soon as he is informed or aware of it.5- Obtaining a license or permission from the Data Protection Center "Center" to deal with personal data.

Article (5) of the Law specifies the obligations of the processor in processing personal data, for example:

1- The purpose of the processing and its practice are legitimate and not contrary to public order or public morals. 2- Not to exceed the specified purpose and duration of the processing. 3-Erasing personal data upon the expiration of the processing period or handing it to the controller. 4- Not to cause damage to the relevant person with the data, directly or indirectly. 5-To obtain a license or permission from the Center to deal with the personal data.

- Article (6) of the Law specifies the cases in which electronic processing is legitimate and legal, as follows:
 1. be carried out with the consent of the relevant person with the data for specific purpose(s);
 2. be necessary for the performance of a contractual obligation or concluding a contract with the relevant person with the data or the initiation of a claim thereby;
 3. be necessary for compliance with a legal obligation or an order from an investigatory authority or judicial award; or

4. be necessary for the controller to carry out his obligations or any relevant person to exercise his legitimate rights, except where overridden by the fundamental rights and freedom of the relevant person with the data.
- In Article (7), the Law requires both the controller and the processor to notify the Center of any breach or violation of personal data within 72 hours of the breach. Unless this breach or violation is related to protecting national security, then the notification must be immediate.
 - **Personal Data Protection Officer**
Article (9) of the Law stipulates some of the obligations of the Personal Data Protection Officer, which are as follows:
 - Conducting a periodic evaluation and examination of the systems for protecting personal data and preventing its penetration;
 - Enabling the relevant person with the data to exercise his rights stipulated in this Law;
 - Notifying the Center in the event of any breach or violation of the obtained personal data;and
 - Removing any violations of the personal data within his entity and taking corrective actions regarding it.
 - Article (10) clarifies the procedures for making personal data available, which are as follows:
 1. Making the Personal data available shall be upon a written request submitted by the relevant person or according to a legal basis;
 2. the availability of the necessary documents shall be verified to implement the availability; and
 3. the availability request shall be decided upon within six working days from the date of its submission. Upon issuance of a rejection decision, it must be justified.
 - Article (12) prohibits the controller or processor, whether a natural or legal person, from collecting, transferring, storing, saving, processing, or making available sensitive personal data without a license from the Center. Except in legally authorized cases, the written and explicit consent of the relevant person is required.
 - Article (14) of the Law also prohibits the transfer of the personal data which has been collected or prepared for processing to a foreign country unless there is a level of protection not less than the level stipulated in this Law. However, Article (15) excludes the provision of Article (14) in certain cases specified by the Law and in the event of an explicit consent from the relevant person with the data or his representative. Article (16) also permits the controller or the processor to make personal data available to another controller or processor outside the Arab Republic of Egypt in case there is a license from the Center and certain conditions set by the Law are met.
 - **Direct Electronic Marketing**
Article (17) of the Law prohibits any electronic communication for the purpose of direct marketing to the relevant person with the data, unless five conditions are met, which are the following:
 1. Obtaining consent from the relevant person with the data.

2. The identity of the communication originator and sender is revealed.
3. The existence of a valid and sufficient address of the sender in order to reach him.
4. An indication that electronic communication is sent for direct marketing purposes.
5. Establishing clear and easy mechanisms to enable the relevant person with the data to refuse electronic communication or to withdraw his consent regarding sending it.

- **Personal Data Protection Center**

Article (19) of the Law stipulates the establishment of Personal Data Protection Center; which is a public economic entity that reports to the competent minister and has a legal personality. It aims to protect personal data and organize its processing and availability, in order to achieve its objectives, it has some jurisdictions as follows:

1. Establishing and developing the necessary policies, strategic plans and programs to protect personal data.
 2. Establishing and implementing decisions, regulations, measures and standards for the protection of personal data.
 3. Coordination and cooperation with all governmental and non-governmental entities in ensuring procedures for protecting personal data.
 4. Issuing licenses, permits, approvals, and measures related to the protection of personal data. Also from article (26) to Article (29), it clarifies in detail types of licenses, permits, and approvals issued by the Center, procedures for their issuance, amendment of their conditions and its cancellation.
 5. Concluding agreements and MOU and exchanging experiences with relevant international bodies.
- Article (24) of the Law prohibits the members of the Board of Directors of the Center and its employees from disclosing any documents or data. This obligation continues after the end of the employment relationship with the Center. However, this article excluded investigation authorities, judicial authorities and judicial bodies from this prohibition.
 - Article (32) of the Law guarantees the right of the concerned person with the data and any relevant person to submit to any holder, controller or processor a request related to the exercise of his rights stipulated in this Law.
 - Article (33) of the Law also guarantees the right of the relevant person with the data and any relevant person has capacity and direct interest the right to complain in the following cases:
 - 1- Violation or breach of the right to protect personal data.
 - 2- Refraining from enabling the relevant person with the data to fulfill his rights.
 - 3- Decisions issued by the Data Protection Officer of the processor or controller regarding the requests submitted to him.
 - Article (34) of the Law grants a judicial power\execution to the Center's employees in proving the crimes committed in violation of the provisions of this Law.

- **Crimes and Penalties**

Chapter 14 (from Article (35) to Article (48)) regulates the crimes and penalties of violating the provisions of this Law. Among these crimes, for example, for the holder, controller, or processor to disclose, provide or circulate electronically processed personal data without legal authorization or without the consent of the relevant person, or for every holder, controller, or processor to refrain, without a requirement of Law, from empowering the person to exercise his rights stipulated in Article (2) of this Law, or the failure of every controller, processor or legal representative of the legal person to abide by his duties, or violating the provisions of licenses, permits, or approvals stipulated in this Law, or preventing one of the Center employees who has judicial power\execution from performing his job.

- **Conciliation regarding crimes in this Law**

Article (49) permits conciliation in the crimes mentioned in this Law, whereby the accused may, before the Award becomes final, establish conciliation with the defendant or his representative or his general successor. The aforementioned shall be with the approval of the Center before the public prosecution or the competent court and that in misdemeanors stipulated in Articles (36, 37, 38, 39, 40, 41, and 43) of this Law.

Egyptian Tax Authority Decree No. 386 of 2020 requiring a number of companies to issue electronic tax invoices.

Source: Egyptian Tax Authority Decree No. 386 of 2020.

- This decree comes in implementation of the Ministry of Finance Decree No. 188 of 2020, which obliges registrants to issue electronic tax invoices that include the electronic signature of its issuer and the unified code for the goods or service included in the invoice approved by the Egyptian Tax Authority ("ETA"). Whereas, pursuant to Article 2 of the Ministry of Finance Decree, the head of the **ETA** shall issue a decree determining the regulations and technical relevant conditions to and the stages of implementing the electronic invoice system.
- Accordingly, the head of the **ETA** issued a decree to bind the companies whose names are attached to this decree - 134 companies – and registered in the major taxpayer center (as a first stage) to issue electronic tax invoices for the goods they sell or the services they perform as of 15/11/2020.
- The head of the **ETA** illustrated that there are several regulations and technical conditions which shall be applied by the said companies, as follows:
 - 1) Extracting the electronic signature certificate.
 - 2) Using the GS1 coding system or an internal coding system that is linked to the GPC classification system.
 - 3) Executing the procedures for registering the company in the electronic invoice system by using the tax registration number and the company's email.
 - 4) Providing the necessary data to register the person administrating the electronic tax invoice system in the Egyptian Tax Authority ("**ETA**"), such as name, capacity, ID number, phone number, and personal email.
- It is worth noting that other companies than the ones mentioned in this decree may use the electronic tax invoice system after fulfilling the required regulations and conditions.