



Bird & Bird

IT Security Act 2.0

General FAQ of the BSI on the obligations of the companies in the “special public interest” according to the IT Security Act 2.0 – Which companies are affected and what measures do they have to take now?



Last updated 29 October 2021

Category of companies in the special public interest	Obligations		
	Registration with the BSI and designation of contact point that can be reached during normal business hours	Reporting of disruptions without delay	Submission of a self-declaration on IT security
<p>CSPI 1: </p> <p>Companies pursuant to Section 60 para. 1 nos. 1 and 3 AWV (Section 2 para. 14 sentence 1 no. 1 BSI Act)</p> <p>Example: defence technology, processing of classified state information with the BSI approval, etc.</p> <p>Medium need for action (date of application of the obligations: from 1 May 2023)</p>	<p>Existence of such an obligation simultaneously with the submission of the first self-declaration on IT security (Section 8f para. 5 BSIG)</p>	<p>Obligation to report to the BSI via the designated contact point the following disruptions without delay:</p> <p>(1) disruptions of the availability, integrity, authenticity and confidentiality of their information technology systems, components or processes that have led to a failure or a significant impairment to the provision of value added,</p> <p>(2) significant disruptions of the availability, integrity, authenticity and confidentiality of their information technology systems, components or processes which may lead to a failure or to a significant impairment to the provision of value added (section 8f para. 7 BSI Act).</p> <p>Content of the notification: The notification must contain information on (i) the disruption, (ii) the technical framework conditions, in particular the suspected or actual cause, (iii) the information technology affected, and (iv) the type of facility or installation affected.</p>	<p>Obligation to submit a self-declaration on IT security to the BSI at the latest by the first business day following the companies' first or renewed qualification as a company in the special public interest pursuant to section 2 para. 14 sentence 1 no. 1 or 2, and thereafter at least every 2 years (section 8f para. 1 BSI Act).</p> <p>Content of a self-declaration: The self-declaration must state</p> <p>(1) which certifications in the area of IT security have been carried out in the last 2 years, which examination basis and which scope have been defined for this,</p> <p>(2) which other security audits or checks in the area of IT security have been carried out in the last 2 years, which examination basis and which scope have been defined for these, or</p> <p>(3) how it is ensured that the information technology systems, components and processes that are particularly worthy of protection for the company are adequately protected, and whether the state of the art is complied with.</p>
<p>CSPI 2: </p> <p>Companies which, in terms of their domestic value-added, are among the largest companies in Germany and are therefore of considerable economic importance for the Federal Republic of Germany, or which are of essential significance to such companies as suppliers because of their unique selling propositions (Section 2 para. 14 sentence 1 no. 2 BSI Act).</p> <p>Low need for action (due to the still missing ordinance; date of application of the obligations: 2 years after the ordinance comes into force (at the earliest))</p>			

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<p>CSPI 3: Companies subject to regulations under the Hazardous Incident Ordinance (Article 2 para. 14 sentence 1 no. 3 BSI Act)</p> <p>High need for action (date of application of the obligation: from 1 November 2021)</p>	<p>N/A</p> <p>Only on a voluntary basis; this can be done now (§ 8f para. 6 BSI Act)</p>	<p>Obligation to report the following disruptions to the BSI without delay:</p> <p>(1) disruptions of the availability, integrity, authenticity and confidentiality of their information technology systems, components or processes that have led to an incident in accordance with the Hazardous Incident Ordinance,</p> <p>(2) significant disruptions of the availability, integrity, authenticity and confidentiality of their information technology systems, components or processes which may lead to an incident in accordance with the Hazardous Incident Ordinance (Article 8f para. 8 BSI Act).</p> <p>According to the FAQ of the BSI, the reporting obligation for CSPI 3 covers in particular events that lead to serious hazards that threaten the lives of people or where serious health impairments of people are to be feared or the health of a large number of people may be impaired. The reporting obligation is intended to help overcome critical situations more quickly and/or better and to warn third parties in good time of recurring dangers.</p> <p>Content of the notification: The notification must contain information on (i) the disruption, (ii) the technical framework conditions, in particular the suspected or actual cause, (iii) the information technology affected, and (iv) the type of facility or installation affected (see the BSI form).</p>	<p>N/A</p>

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