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## **THE LAW OF THE KYRGYZ REPUBLIC On Personal Data**

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The present law is directed at legal regulation of work with personal data based on the standard international norms and principles according to the Constitution of the Kyrgyz Republic and laws of the Kyrgyz Republic is necessary first of all for assuring human personal rights and freedoms relating to the personal data gathering, processing and use.

### **Chapter 1. General provisions.**

#### **Articles 1. Purpose of the present law**

purposes of the present law are as follows:

- Stirring up of a purposeful state policy in sphere of work with the personal data;
- protection of rights and freedoms of an individual where personal data used and protection of this information;
- legislative definition of operational procedures applicable to personal data;
- legislative definition of formation procedures of the files of personal data by the government bodies, local state administrations, local self-government bodies, and legal entities as well;
- definition of rights and obligations of the personal data subjects and holders of such information files;
- determination of the state regulation forms and the operational procedure applicable to personal data, and conditions for safety provision thereof.

#### **Article 2. Field of the present law**

1. The present law regulates relations arising at work with personal data, irrespective of the applied information processing means, except the work realization with the personal data, with its further transfer to the third persons.

2. Activities of the present law are not spread on the storage, usage and processing of the personal data in accordance with the personal, family or economic issues of the person.

#### **Articles 3. Terms and definitions**

The following basic terms and definitions shall be used for the purposes of the present Law:

**Information of a personal nature (personal data)** - the information kept on a material information carrier about a certain individual, identified with the a certain individual or which can be identified with a certain individual, allowing to identify this person directly or indirectly, in particular by means of reference to the identification number or to one or a number of factors, specific to his physical, psychological, mental, economic, cultural or social identification.

**The personal data** shall be defined as: biographic and identification data, personal characteristics, data on the marital status, social status, education, skills, trades, an official standing, a financial position, state of health and other.

**List of the personal data** is a list of data categories about one subject.

**File of the personal data** - the ordered and organized personal data aggregate of uncertain number of the personal data subjects, irrespective of a material data carrier and processing means used thereto (archives, card files, electronic databases, etc.).

**Publicly available personal data files** - the personal data files, access to which is not limited by either legislative or normative and legal acts and are intended for general public use (reference books, telephone directories and directories, etc.).

**Confidentiality of the personal data** is the normatively established regulations determining restrictions of access, transfer and storage conditions of the personal data.

The subject of the personal data (subject) is a person to whom the corresponding personal data relate.

**Holder of the personal data file** - governmental bodies, local self-government bodies, and legal persons determined by the Government of the Kyrgyz Republic, carrying out work with the personal data files on the legal bases in accordance with the present law.

**The personal data recipient** - a legal entity, a body of the state power or local self-government to whom the personal data are disclosed.

**Authorized state authority** – is a state authority which is responsible for the holder's (owner's) personal data files registration, holder's (owner's) personal data files roll regulation and of other tasks, in accordance with the present Law.

**Handler**- is a physical or a legal person determined by the holder (owner) of the personal data, who is involved into the personal data processing based on the signed agreement.

**Recipient of the Personal data** – is governmental bodies, local self-government bodies, judicial and legal persons, as well as the subject of the personal data (subject), to whom personal data is given in accordance with the present Law.

**Collection of the personal data** - documentarily authorized procedure of the personal data reception on the legal bases by the holder of the personal data file from subjects of these data or from other sources in conformity with the existing legislation of the Kyrgyz Republic.

**Personal data processing**- is any operation or a number of operations, realized irrespectively of ways of realization, either with the holder's (owner's) request, automatically or not, with the collection purposes, storage, activization, grouping, blocking, erase and destruction of the personal data.

**Consent of the personal data subject** - freely given, specific and conscious expression of his will, including the written confirmation by which the data subject notifies of his consent to the work with his personal data to be conducted.

**Transfer of the personal data** - the personal data communication by its holder to third parties in conformity with the present law and the international treaties.

***Transboundary transfer of the personal data*** - the personal data communication by its holder to the holders being under jurisdiction of other states.

***Actualization of the personal data*** is executive adjustments made in the personal data according to the procedures established by the existing legislation of the Kyrgyz Republic.

***Blocking of the personal data*** - suspension of transfer, updating, application and elimination of the personal data.

***Elimination (deleting or destruction) of the personal data*** - actions of the personal data holder on these data bringing to the condition status, not allowing for the restoration of their contents

***Depersonalization of the personal data*** - removal from the personal data of that part which allows for their identification with the certain person.

#### **Article 4. Basic principles of work with the personal data**

1. The personal data should be received and processed in a diligent and legitimate way.
2. The personal data should be collected for precisely specific, declared and lawful purposes, not be used in the contradiction with these purposes and not to be processed in future in a way incompatible with the given purposes.
3. The initial data should be exact and be updated in case of necessity.
4. The personal data should be stored not longer than the goal for which they were collected demand, and they shall be subject to destruction after these goals achieved or as they are not needed whatsoever.
5. For the personal data, kept longer for historical or other purposes, the necessary guarantees should be established to maintain their security.
6. Association of the personal data files for the automated processing the information collected earlier by the holders (owners) with the different purposes, shall not be allowed.
7. Personal data should be stored and be protected by the holder (owner) of the personal data files from the unknown access, additions, changes and destruction.
8. Main work principles with the personal data are not limited and can be changed in accordance with the Kyrgyz legislation.

## **Chapter 2 Legitimate principles of work with the personal data**

#### **Article 5. Legal basis of work with the personal data**

The work with the personal data can be carried out by the personal data file holder (owner) only in cases:

- where the subject of the personal data has given an unambiguous consent to its conducting;
- where it is necessary for performance by bodies of the government, local self-government bodies within the scope of competence established by the existing legislation of the Kyrgyz Republic;
- where it is necessary for the achievement of legitimate interests of holders (owners), where realization of these interests does not interfere with exercise of rights and freedoms of the personal data subjects regarding the personal data processing;
- where it is necessary for the protection of vital interests of the personal data subject;

- where personal data processing is realized with the journalism, art or literature purposes, in accordance with the personal data holder's (owner's) consent with the personal life integrity consideration and the freedom of speech.

#### **Article 6. Legal regime of the personal data**

1. The personal data possessed by the holder (owner), relate to the confidential information, except for the cases specified by the present law.
2. The holder (owner) of the personal data and the handler shall be obliged to provide the personal data security in order to prevent the non-authorized access, their blocking or transfer, as well as their casual or non-authorized destruction, change or loss.
3. Confidentiality mode of the personal data shall be removed in cases:
  - Depersonalization of the personal data;
  - At the request of the personal data subject;
4. The legal regime of the personal data received as a result of the law enforcement bodies' activity shall be established in conformity with the existing legislation of the Kyrgyz Republic.
5. At the subject's request of the generally accessible information mode for his personal data may be established (bibliographic reference books, telephone directories, directories, personal advertisements, data files for the direct marketing, etc.) The only exceptions are the cases when information must carry a public character in accordance with the requirements of the Kyrgyz Republic Legislation.
6. From the moment of the personal data subject's death the legal regime of the personal data shall be subjected to replacement by the archival storage mode or by the other legal regime, stipulated by the existing legislation of the Kyrgyz Republic.
7. The personal data protection of the deceased person may be carried out by other persons, including successors, in the order, stipulated by the existing legislation of the Kyrgyz Republic.

#### **Article 7. Generally accessible files of the personal data**

1. With the purpose of the information provision to the society the generally accessible personal data files may be created (reference books, telephone directories, directories, etc.).
2. Generally accessible personal data files may include based on the written approval of the subject the following personal data: a surname, a name, a patronymic name, date of birth and birthplace, a residential address, contact phone number, data on occupation, other data given by the subject and/or received from open sources, other generally accessible files of the personal data if these sources are generated with the consent of the personal data subject.
3. In a case the personal data are received by the holder (owner) of the generally accessible personal data file from open sources or other generally accessible personal data files, the holder (owner) of the generally accessible personal data file informs the subject about his personal data contents, on the reception sources and the purpose of use.
4. The personal data of the concrete subject shall be excluded immediately by the holder (owner) of the personal data from the generally accessible personal data file and in case

of publication or publication of the next circulation on the basis of this subject's instruction or the decision of the law enforcement body.

5. The confidentiality mode for the generally accessible personal data files shall not be established.

#### **Article 8. Special categories of the personal data**

1. Collection, accumulation, storage and use of the personal data revealing a racial or ethnic origin, nationality, political views, religious or philosophical beliefs, and concerning the state of health and sexual practices, exclusively with the purpose of such factors revealing, shall not be allowed.
2. Part 1 of the present article shall not be applied in cases:
  - where the personal data subject has given the obvious consent to the communication and processing of such data;
  - where processing is necessary for the protection of the data subject's vital interests, other person or corresponding group of individuals;

### **Chapter 3.**

#### **Rights of the personal data subject**

#### **Article 9. Presentation of the personal data**

1. The personal data subject solves independently the problem on granting to somebody of any personal data except for the cases stipulated by article 18 of the present law. The personal data are given by the subject personally or through the authorized representative.
2. With the purpose of rights and freedoms realization, the subject provides the data in the volume stipulated by the legislation of the Kyrgyz Republic, as well as the data on their changes to the corresponding bodies of the state power, local self-government bodies, which shall be eligible to work with the personal data within the scope of their competence.
3. Prior to the personal data presentation the subject should be familiarized by the holder (owner) with the personal data file including the list of the collected data, bases and purposes for their collection and use, and he shall be informed on the personal data possible transfer to the third party, as well as on the personal data other possible use.
4. Subject of the personal data in case of refusal of his/her personal data provision has a right not to indicate the reason of his/her refusal.

#### **Article 10. Access of the subject to his personal data**

1. The subject of the personal data shall have the right to know about availability of the relating to the subject personal data possessed by the holder (owner) and to have access to them. The right to access can be limited only in the cases stipulated by article 15 of the present law.
2. Making citizens informed of the personal data files availability with the holders (owners) shall be carried out on the basis of the general Register of holders (owners) of the personal data files, published in mass media according to the order established in article 30 of the present legislation.

3. The information on availability and contents of the subject personal data should be given to him by the holder (owner) of the personal data file in the common documentary form which should be precisely and clearly expressed and should not contain the personal data concerning other subjects.
4. Presenting the personal data to their subject on the subject's initiative shall be made on the basis of the subject's written letter of inquiry and the document certifying his personality on a free payment base. The payment is taking only in the case when information is provided on the hard copies (papers, floppy discs and etc) on the amount not exceeding expenses for the information search and delivery. The information on the personal data availability and the personal data itself shall be provided to the data subject in period of time, not exceeding one week from the moment of the application submission.
5. The subject of the personal data has the right to get familiarized with the documents containing data of a personal nature about him.

#### **Article 11. Entering of changes by the subject into his personal data**

At existence of the grounds confirmed by corresponding documents, the subject of the personal data has the right to demand from these data holder (owner) to update the personal data. Changes shall be made to the personal data in the order established by article 28 of the present law.

#### **Article 12. The personal data blocking and its removal**

In the event the personal data subject reveals their inauthenticity or disputes legitimacy of actions conducted in respect to his personal data, he shall have the right to demand from the holder (owner) to block these data. Blocking and removal of the personal data blocking shall be carried out according to article 19 of the present law.

#### **Article 13. Appeal of wrongful actions towards the personal data.**

If the personal data subject considers that the wrongful actions are accomplished concerning his personal data, he shall have the right to appeal against these actions in the general order established by the existing legislation of the Kyrgyz Republic.

#### **Article 14. Damage indemnification and (or) moral harm compensation**

In case of establishment of the personal data file holder's (owner's) illegitimacy of actions in processing the personal data, the subject of the data shall have the right to the damage indemnification and (or) moral harm compensation in the judicial order.

#### **Article 15. Restriction of the subject's rights to the personal data presentation and reception**

Restriction of the subject's rights on the personal data provision and reception shall be possible with regard to:

- a) Rights of the subject to provide his personal data to the holders (owners) of the personal data files - for the personal data subjects, having access to data which are the state secret, - shall be granted within the limits established by the Law of the Kyrgyz Republic "On protection of the state secrets of the Kyrgyz Republic".
- b) Rights the personal data subject to access to his personal data to make alterations and blocking his personal data.
- c) For the personal data received at the result of the military actions, with exception when such actions are realized with violations of the Kyrgyz Republic legislation.

- d) For subject's personal data collection, who are arrested in suspension of the crime.
- e) Limitations to the subject's personal data access are not allowed.

#### **Chapter 4**

#### **Rights and duties of the holder (owner) and the handler of the personal data files.**

#### **Article 16. Holders (owners) of the personal data files**

1. Bodies of the state power, local state administrations, local self-government bodies have the right to act as the personal data files holders (owners) and to work with the personal data within the competence scope established by the existing legislation of the Kyrgyz Republic.
2. Legal entities have the right to work with the personal data after registration in the relevant state authority, as the personal files holders (owners) in accordance with the Article 30 of the present law.
3. Legal persons who work with the personal data with no transfer of these data to the third persons are not the holders (owners) of the personal data files.

#### **Article 17. Duties of the holder (owner) of the personal data file**

1. The holder (owner) of the personal data file shall be obliged:
  - to obtain the personal data directly from the subject of the personal data, his authorized representatives or from other lawful sources;
  - to provide the confidential mode of the personal data in cases stipulated by the legislation of the Kyrgyz Republic and the present law;
  - to identify a handler for the personal data processing, who provides the guarantees of the technical safety and organizational measures, with an exception when the holder (owner) takes all the responsibilities of the handler.
  - to provide safety and reliability of the personal data, as well as the access mode established by the normative procedure;
  - to provide the personal data in one week period after receipt inquiry from the subject.
  - in case of refusal to provide the information to the subject on his demand on availability of the personal data on him, and the personal data itself, the written motivated answer containing the reference to corresponding provision of article 15 of the present law should be given in time, not exceeding two weeks from the moment of the subject application;
  - in one-week term to present the information demanded by inquiries of the authorized body of the state power on personal data or on human rights necessary for execution their powers.
2. Individuals, whom the personal data became known due to their official position, shall take up obligations and bear responsibility for provision of these personal data confidentiality. Such obligations remain valid after the termination of work of these individuals with the personal data during the confidentiality mode preservation term according to article 6 of the present law.

#### **Article 18. Duties of holders (owners) of the personal data relating to working up of the personal data lists**

1. Holders (owners) who work with the personal data, within the framework of their competency, should develop a list of personal data and manual guide to it, in accordance with the specifics of their activity.
2. The specified lists shall be coordinated with the authorized body of the state power on the personal data, shall be registered with this body and published in the Register of holders (owners) of the personal data files, annually issued by this body of the state power. The given lists shall establish the data volume used by bodies of the state power, local state administrations and local self-government bodies for implementation of their competent functions.
3. The authorized body of the state power on the personal data shall be appointed from the existing governmental bodies by the Government of the Kyrgyz Republic.
4. The order of registration of the personal data lists shall be determined by the Government of the Kyrgyz Republic.
5. Holders (owners) of the personal data files, carrying out work with the personal data on the decision of the Government of the Kyrgyz Republic, shall work out lists of the personal data according to specifics of their activity and coordinate them with the authorized governmental body on the personal data, shall be registered with this body and published in the Register of holders of the personal data files.
6. Lists of the personal data should correspond to the purposes of these data collection. Expansion of the established lists for implementation of other purposes shall not be allowed.

**Article 19. Duties of the holder (owner) of the personal data file on the personal data blocking, removal of blocking and destruction**

1. In case of revealing by the personal data subject of inauthenticity of the personal data or the personal data file holder's (owner's) illegitimacy of actions at work with the personal data, the subject of the data shall have the right to submit an application to these data files' holder (owner) or to apply to the authorized governmental body on the personal data. The holder (owner) shall be obliged to accept the application of the subject to process and block his personal data from the moment of his application receipt for the period of examination thereof.
2. In the event of the personal data inauthenticity confirmation, the holder (owner) of the personal data file shall be obliged based on documents presented by the subject to adjust them and to remove blocking.
3. In case of disclosure of illegitimacy of the personal data collection the holder (owner) shall be obliged to destroy the corresponding data in time, and to notify about it documentarily the subject of the personal data.
4. In case of a mutual recognition of legitimacy of actions towards the personal data or their reliability the holder (owner) of the personal data file shall be obliged to urgently remove their blocking.
5. In case of disagreement of the holder (owner) of the personal data file with the application of the personal data subject, resolution of disputable situations shall be executed by the authorized body of the government on the personal data or in the administrative or judicial order.

**Article 20. Personal data handler duties**



1. Handler realize the personal data processing based on the agreement signed with the holder (owner) of the personal data.
2. Handler must do the collection, recording, storage, updating, blocking and destruction of the personal data, disregarding the ways of processing, based on the holder's (owner's) request.

**Article 21. Organizational and technical measures of personal data protection.**

1. Holder (owner) of the personal data files and the handler must provide the guarantees of the technical security and organizational measures, which regulate personal data processing.

During the personal data processing the holder(owner) of the personal data files and the handler must:

- exclude outsiders' access to the equipment, which is used for the processing of the personal data (access control);
- prevent reading, copying, changing or removal of the data without permission ( personal data usage control);
- prevent recording, changing or destruction of the personal data without permission (recording control) as well as to provide a possibility of identification of who, when and which personal data has been changed ;
- provide security of the personal data processing system, which is used for the personal data transmission, disregarding of the personal data transmission ways (personal data transmission control);
- to control that every user of the personal data processing system has an access only to those personal data, to the processing of which he has an access (access control);
- to provide a possibility of identifying when, by whom, and which personal data has been added to the data processing system (entering control) ;
- do not allowed an unauthorized reading, copying, changing, or destruction of the personal data during the personal data transmission (transport control);
- to provide information confidentiality, received during the personal data processing.

**Article 22. Duties of the governmental bodies and local self-government bodies at the personal data exchange**

1. The governmental bodies, local state administrations and local self-government bodies may use the personal data, possessed by other state holders (owners) of the personal data, in their activity.
2. Formation of the combined personal data files received by bodies of the state power, local state administrations or local self-government bodies from various state holders (owners) of the personal data shall not be allowed.
3. Control over the personal data use received by bodies of the state power, local state administrations or local self-government bodies from other state holders (owners) of the personal data, shall be carried out by the Authorized state body on the personal data according to the procedure established by the Government of the Kyrgyz Republic.

**Article 23. Organization of the state personal data reference service**

1. With the purpose of the organization of the state personal data reference services provision to physical persons and legal entities the Authorized body of the state power shall conduct the Register of the primary account of physical persons, on the basis of the primary account data stored by the state holders (owners) of the personal data, received by them on the lawful bases.

2. The authorized body of the state power on the personal data shall organize the reference services for physical persons and legal entities, bodies of the state power and local self-government bodies on the basis of the data contained in the Register of the personal data primary account.
3. The order of conducting the Register of the personal data primary account and organization of reference services shall be established by the Government of the Kyrgyz Republic.

#### **Article 24. Transfer of the personal data**

1. The holder (owner) of the personal data file shall have the right to transfer these data to other holder (owner) without the personal data subject's consent in cases:

- emergency for protection of the personal data subject's vital interests;
- of inquiry of the state power bodies, local state administrations, local self-government bodies if the required list of the personal data corresponds to the powers of the requesting body;
- in pursuance with the law.

2. The holder (owner) of the personal data files is obliged to inform the subject of the personal data concerning transmission of his personal data to the third side in any form within the week period.

3. When transferring the personal data the recipient shall be liable for confidentiality mode observance relating to these data.

4. The personal data collected at the expenses of the state budget funds, shall be transferred free-of-charge to the bodies of the state power and organizations of budgetary sphere.

#### **Article 25. Transboundary transfer of the personal data**

1. At transboundary transfer of the personal data, the holder (owner) of the personal data file, located under the jurisdiction of the Kyrgyz Republic and transferring the data, shall proceed from the international treaty between the parties according to which the receiving party shall provide level of protection of rights and freedoms of the personal data subjects and the personal data security equal to that of established in the Kyrgyz Republic.
2. The Kyrgyz Republic provides legal protection measures for the personal data located in its territory or transferred through its territory, precluding their distortion and unauthorized use.
3. Transfer of the personal data files by the holders (owners), located within jurisdiction of the Kyrgyz Republic, to the countries which are not providing level of protection of rights and freedoms of the personal data subjects equal to that of existing in the Kyrgyz Republic, may take place provided that:
  - The obviously expressed consent of the personal data subject to this transfer;
  - If the transfer is necessary for protection of the personal data subject's vital interests;
  - If the personal data are contained in the generally accessible personal data file.
4. Where transferring the personal data through the global information network (the Internet, etc.) the holder (owner) of the personal data file, transferring such data, shall be obliged to provide the necessary security means for such transfer, including confidentiality.

#### **Article 26. Depersonalization of the personal data**

With the purpose of conducting the statistical, sociological, historical, medical and other scientific and practical researches the holder (owner) of the personal data file shall perform depersonalization of the used data, shaping them into anonymous data. Thus, the mode of the confidentiality established for the personal data, shall be removed. The depersonalization should preclude an opportunity of the personal data subject identification as agreed with the subject.

#### **Article 27. Storage of the personal data**

1. The personal data should not be stored longer than it is necessary for performance of the purposes of collection thereof. Storage terms may be extended only in the personal data subject's interests or if such is stipulated by the existing legislation of the Kyrgyz Republic. After the storage term expiry and after achievement of the personal data collection goals, they shall be subject to destruction within two weeks. Destruction shall be confirmed by the written document.
2. In case of the decision made according to the established procedure, on the necessity to preserve the personal data after the storage term expiry, achievement of the target goals of their collection or the license validity expiry, the holder (owner) of the personal data file shall be obliged to provide the corresponding storage mode of the personal data and to inform the data subject about it.
3. Certain personal data (personal records, registers of birth, etc.) after the practical need in them has been over, can remain for permanent storage in the status of the archival document or other status stipulated by the existing legislation of the Kyrgyz Republic.

#### **Article 28. Actualization of the personal data**

1. The holder (owner) of the personal data file shall update the personal data possessed by him on condition of documentary confirmation of the new data reliability:
  - in the cases stipulated by the law;
  - on his own initiative;
  - on the initiative of the personal data subject whose personal data are subject to update, according to article 11 of the present law.
2. Updating of the personal data on demand of these data subject shall be made not later than one week period from the moment of his application submission. The data updating on the initiative of the holder (owner) shall carried out according to internal rules.

### **Chapter 5.**

#### **State regulation of work with the personal data**

#### **Article 29. Forms of state regulation in work with the personal data**

The state shall regulate the work with the personal data in the following forms:

- government of the Kyrgyz Republic determines a specific state body of the Kyrgyz republic;
- record and registration of the personal data files and holders (owners) thereof;

- makes international agreements on the transboundary transfer of the personal data, except for the events when such transfer contradicts with the Kyrgyz Republic jurisdiction on the state secrets' protection.

### **Article 30. Registration of the files and holders (owners) of the personal data**

1. Files of the personal data and holders (owners) of these files shall be subject to obligatory registration with the authorized body of the state power on the personal data. At registration procedure the following shall be recorded:
  - name of a file of the personal data;
  - name and entries of the holder (owner) of the personal data file, carrying out work with the personal data file (address, ownership form, subordination, telephone number, a surname, a name, a patronymic name of the head, e-mail, fax, address of the telecommunication network server);
  - goals and ways of the personal data collection and use,
  - modes and terms of their storage;
  - list of the collected personal data;
  - categories or groups of the personal data subjects;
  - sources of the personal data collection;
  - the notification procedure of subjects about their personal data collection and possible transfer;
  - arrangements on the personal data confidentiality and safety maintenance;
  - the person bearing the direct responsibility for the work with the personal data;
2. The personal data files containing data, attributed to the state secret on the basis of the Law of the Kyrgyz Republic "On protection of the state secrets of the Kyrgyz Republic", shall not be registered.
3. The authorized body of the state power on the personal data shall carry out the record of the personal data files and these data holders (owners), including the holders of the personal data files who carry out work with the personal data.
4. The mentioned body shall annually publish in mass media the Register of the personal data holders for general awareness.

### **Article 31. The liability for the present law infringement**

Infringement of the present law shall entail the liability in pursuance with the legislation of the Kyrgyz Republic

## **Chapter 6.**

### **Final provisions**

### **Article 32. On the present law enactment**

The present law enters into force from the date of its official publication.

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**The President of the Kyrgyz Republic K. Bakiev**

**Has been passed by the Parliament of Kyrgyz republic from the 21<sup>st</sup> of February 2008.**