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LAW OF THE KYRGYZ REPUBLIC ON INFORMATION OF A PERSONAL NATURE

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The purpose of this Law is to legally regulate handling personal data on the basis of generally accepted international principles and rules in compliance with the Constitution and laws of the Kyrgyz Republic with a view to ensuring protection of human and civil rights and freedoms connected with collection, processing and use of personal data.

Chapter 1 General Provisions

Article 1. The goals of this Law

The goals of this Law shall be:

- to intensify targeted State policy in the field of handling personal data;
- to protect personal rights and freedoms in the process of using information of a personal nature and to protect this information;
- to determine conditions for handling information of a personal nature;
- to determine the procedure of personal data arrays generation by State authorities, local government bodies, and legal entities;
- to determine the rights and duties of subjects of information of a personal nature, holders (possessors) and recipients of such information arrays;
- to establish the forms of State regulation and of the procedure for handling information of a personal nature, as well as the conditions that would ensure its preservation.

Article 2. Scope of this Law

1. The present Law shall be applicable to relations arising from handling information of a personal nature irrespective of the means used to process this information except for cases of handling personal data for the purposes that rule out their transfer to third persons.
2. This Law shall not be applicable to storage, processing and use of personal data in connexion with personal, family or economic affairs of a natural person.

Article 3. Terms and definitions

For the purposes of this Law, the following basic terms and definitions shall be used:

Information of a personal nature (personal data) – information recorded in tangible form about a specific person, matched with a specific person or that can be matched with a

specific person, allowing to identify this person directly or indirectly by referring to one or several factors specific for his/her biological, economic, cultural, civil or social identity.

Personal data include biographic and identifying data, personal characteristics, information on the marital status, financial position, state of health, etc.

Personal data list – a list of data categories on one personal data subject.

Personal data array – any structured collection of personal data of an indefinite number of subjects irrespective of the type of storage medium and the means of data processing (archives, card indexes, electronic data bases, etc.).

Publicly available personal data arrays – personal data arrays access to which is not limited by legislation and which are intended for public use (reference books, telephone directories, address books, etc.).

Personal data confidentiality regime – prescribed regulations that determine limitations of access to and transfer and provision of personal data, and storage conditions of such data.

Personal data subject (subject) – a natural person to whom relevant personal data refer.

Personal data array holder (possessor) - State authorities, local government bodies, and legal entities entrusted with determining the purposes and categories of personal data and controlling collection, processing and use of personal data in compliance with this Law.

Authorised government body – a government body entrusted with the functions of registering personal data array holders (possessors), keeping the Register of Personal Data Array Holders, and other tasks stipulated by the present Law.

Processor – a natural person or legal entity determined by the personal data array holder (possessor) that processes personal data on the basis of a contract concluded therewith.

Personal data recipient – a State authority or local government bodies, legal entities and natural persons, and a personal data subject to whom personal data are transferred and for whom they are provided in compliance with this Law.

Personal data collection – the procedure of getting personal data by a personal data array holder (possessor) from the subjects of these data or from other sources in compliance with the legislation of the Kyrgyz Republic.

Personal data processing – any operation or set of operations carried out by any means by a personal data holder (possessor) or under his/her instructions, with or without automatic means with a view to collecting, recording, storing, updating, grouping, blocking, deleting, and destroying personal data.

Consent of a personal data subject – free, specific, unconditional and conscious declaration of will by a person, expressed in any form, by which the subject announces his/her consent to the procedures connected with processing of his/her personal data.

Personal data transfer – providing by the holder (possessor) of personal data to third persons in compliance with the present Law and international treaties.

Transboundary personal data transfer – transfer of personal data by the holder (possessor) to holders subject to the jurisdiction of other States.

Personal data updating – timely introduction of modifications into personal data in compliance with the procedures established by the current legislation of the Kyrgyz Republic.

Personal data blocking – suspension of transfer, clarification, use and destruction of personal data.

Destruction (deletion or obliteration) of personal data – actions by the holder (possessor) of personal data carried out with a view to putting these data in a state that would not allow to restore their content.

Anonymising of personal data – withdrawal from personal data the part which allows to match them with a specific person.

Article 4. Basic principles of personal data handling

1. Personal data must be received and processed according to the procedure stipulated by this Law.
2. Personal data must be collected for precisely and preliminarily specified and announced lawful purposes, must not be used in contradiction to these purposes or further processed in any way incompatible with these purposes.
3. Initial data must be precise and be updated as necessary.
4. Personal data must not be stored longer than required by the purposes for which they were collected and must be destroyed as soon the purposes are achieved or as soon as the data become unnecessary.
5. Necessary protection guarantees must be established for personal data preserved for a longer time for historical or other purposes.
6. It shall be prohibited to merge personal data arrays collected by holders (possessors) for different purposes for automatic processing of information.
7. Personal data must be stored and protected by holders (possessors) of personal data arrays from unlawful access, introduction of additions, modifications or destruction.
8. The basic principles of personal data handling are not exhaustive and may be supplemented in compliance with the legislation of the Kyrgyz Republic.

Chapter 2

Conditions of legality of handling personal data

Article 5. Legal basis of personal data handling

Personal data may be handled by the holder (possessor) of a personal data array only:

- if the subject of the personal data has given his/her consent to such handling;
- if the handling is necessary for State authorities or local government bodies to exercise their powers established by the legislation of the Kyrgyz Republic;
- if it is necessary to achieve lawful interests of holders (possessors);
- when accomplishment of these interests does not impede the exercise of rights and freedoms of personal data subjects in respect to personal data processing;
- when this handling is necessary to protect the interests of the personal data subject;
- if personal data are handled exclusively for the purposes of journalism or artistic or literary creative activities on condition that such actions are agreed upon with the personal data subject respecting the right to privacy and freedom of speech.

Article 6. Legal regime of personal data

1. Personal data that are in the competence of a holder (possessor) shall be confidential information except for cases defined by this Law.
2. A holder (possessor) of personal data and the processor must ensure protection of personal data to avoid unauthorised access, blocking, transfer, or their fortuitous or unauthorised destruction, modification or loss.
3. Personal data confidentiality regime shall be removed:
 - if personal data in question are anonymised;
 - if the subject of personal data wishes so.
4. The legal regime of personal data obtained through the activities of law enforcement bodies shall be established in compliance with the legislation of the Kyrgyz Republic.
5. If a subject so wishes, his/her personal data may be put under the regime of publicly available information (bibliographies, telephone directories, address books, personal announcements, etc.). Exceptional cases shall be those in which information must be public in compliance with the requirements of the legislation of the Kyrgyz Republic.
6. Immediately upon the death of a personal data subject, the personal data legal regime shall be replaced with the archive storage regime or any other legal regime in compliance with the requirements of the legislation of the Kyrgyz Republic.

Article 7. Publicly available personal data arrays

1. To provide information support for society, publicly available personal data arrays may be created (reference books, telephone directories, address books, etc.).
2. Publicly available personal data arrays may include the following personal data, on condition of a written consent of the subject: full name, year and place of birth, home address, contact telephone number, information on profession, other information provided by the subject and/or received from open sources, and other publicly available personal data arrays if these sources are generated with consent of the personal data subject.
3. If personal data are received by the holder (possessor) of a publicly available personal data array from open sources or other publicly available personal data arrays the holder (possessor) of the publicly available array, upon the subject's request, shall inform the subject within one week of the content of his/her personal data, of the sources from which they were received and of the purpose of their use.
4. Personal data of a specific subject shall be immediately withdrawn by the holder (possessor) from a publicly available personal data array and, in the event of a printed publication – when publishing a new edition, on the basis of an order by this subject or a law enforcement body.
5. The confidentiality regime shall not be applied to publicly available personal data arrays.

Article 8. Special categories of personal data

1. Collection, accumulation, storage, and use of personal data disclosing racial or ethnic origin, ethnicity, political views, religious or philosophical beliefs, or data relating to the state of health and sexual inclinations with the sole purpose of identifying these factors, shall be prohibited.
2. Paragraph 1 of the present Article shall not be applied:
 - a) if the subject of personal data has given his/her consent to the announcement and processing of such data;
 - b) if processing is necessary to protect health and security of the data subject, another person or a relevant group of persons.

Rights of a personal data subject

Article 9. Personal data provision

1. A personal data subject shall independently decide whether to provide his/her personal data to anyone except for cases stipulated by Article 15 of this Law. Personal data shall be provided by the subject either in person or through an agent.
2. To exercise his/her rights and freedoms, a subject shall provide data, as well as information on changes thereto, to the relevant State authorities and local government bodies that have the right to handle personal data within the limits of their competence.
3. Before providing his/her personal data, a subject must be made aware by the personal data array holder (possessor) of the personal data list, of the reasons and purposes of their collection and use, of possible transfer of the personal data to a third party, and informed of any other possible use of the personal data.
4. In the event of refusal to provide his/her personal data, a personal data subject shall have the right not to indicate the reason for his/her refusal.

Article 10. Access by a subject to his/her personal data

1. A personal data subject shall have the right to know that the holder (possessor) has data relative to him/her and the right to have access thereto. The right to access may be limited only in cases stipulated by Article 15 of this Law.
2. Citizens shall be informed of the fact that personal data array holders (possessors) have personal data from the publicly available Register of Personal Data Array Holders (Possessors) published in the media in compliance with article 30 of the present Law.
3. Information of a personal nature shall be provided free of charge to its subject on the basis of a written request by the subject and an identity document. Payment shall be charged only in the event of this information being provided in tangible form (on paper, on a diskette, etc.) in the amount not exceeding the cost of the materials on which it is recorded. Information on the availability of personal data and personal data themselves shall be provided to the data subject not exceeding 7 days of the moment of the application submission.
4. Information on the availability and content of a subject's personal data must be provided to him/her by the personal data array holder (possessor) in a generally understandable form, expressed clearly and explicitly, and must not contain personal data relative to other subjects.
5. A personal data subject shall have the right to get acquainted with documents that contain information of a personal nature relative to him/her.

Article 11. Introduction of modifications by a subject into his/her personal data

A personal data subject shall be entitled to demand that the holder (possessor) of these data introduce modifications into his/her personal data if there are reasons to do so confirmed by relevant documents. Modifications shall be introduced into personal data according to the procedure established by Article 28 of this Law.

Article 12. Blocking and unblocking of personal data

If a personal data subject finds out that his/her data are not veracious or opposes the lawfulness of actions in relation to his/her personal data, he/she shall have the right to demand that the holder (possessor) block these data. Blocking and unblocking of personal data shall be carried out in compliance with Article 19 of this Law.

Article 13. Appeal against unlawful actions in relation to personal data

If a personal data subject believes that unlawful actions have been carried out in relation to his/her personal data, he/she shall have the right to appeal against these actions in a court of law.

Article 14. Compensation of material and/or moral damage

A personal data subject shall have the right to compensation of material and/or moral damage in a court of law.

Article 15. Limitation of a subject's rights

1. A subject's rights to provision and reception of his/her personal data may be limited in relation to:
 - 1) the right of provision by the subject of his/her data to personal data arrays holders (possessors) – for personal data subjects who have access to information classified as State secret – in compliance with the Law on Protection of State Secrets of the Kyrgyz Republic;
 - 2) the subject's right to have access to his/her personal data, modify his/her own personal data, or to block his/her personal data:
 - a) for personal data received as a result of operative search activities, except for cases when such activities are pursued in breach of the legislation of the Kyrgyz Republic;
 - b) for personal data of subjects detained on suspicion of a crime or served with a charge in connexion with a criminal case or subject to a measure of restraint before a charge is served by the bodies carrying out the above activities.
2. No limitation of a subject's right of access to his/her personal data not stipulated by par. 1 of this article shall be allowed.

Chapter 4.

Rights and obligations of a holder (possessor) and processor of personal data arrays

Article 16. Personal data arrays holders (processors)

1. State authorities and local government bodies who handle personal data arrays in compliance with this Law and other legislative instruments of the Kyrgyz Republic shall have the right to act as holders (possessors) of personal data.
2. Legal entities shall have the right to handle personal data upon registration with the authorised government body as a holder (possessor) of a personal data array in compliance with Article 30 of this Law.
3. Legal entities that handle personal data for purposes incompatible with transfer of these data to third persons shall not be personal data array holders (possessors).

Article 17. Obligations of a personal data array holder (possessor)

- 1 A holder (possessor) of a personal data array is obliged to:
 - a) receive personal data directly from the personal data subject or his/her authorised representatives;
 - b) ensure personal data confidentiality regime in the cases stipulated by the legislation of the Kyrgyz Republic and by this Law;
 - c) appoint a processor for processing personal data who would provide guarantees as to technical safety measures and organisational measures regulating personal data processing except for cases in which the holder (possessor) itself assumes the functions and obligations of a processor;

- d) ensure safety and veracity of personal data, as well as the regime of access thereto established by laws and regulations;
 - e) provide personal data within one week upon receipt of a request from a subject;
 - f) in the event of refusal to provide to a subject in response to his/her request information on the availability of personal data on him/her, as well as personal data themselves, give a written substantiated response containing a reference to the relevant paragraph of Article 15 of this Law within one week of the subject's request to provide such information or data;
 - g) provide, within one week, in response to requests by the authorised government body or by the Ombudsman (Akyikatchy) of the Kyrgyz Republic information necessary for exercising their powers.
2. Persons who became aware of personal data by virtue of their official position shall assume obligations and bear responsibility as to ensuring confidentiality of these personal data. Such obligations shall remain in force after these persons cease handling personal data within the period of maintaining the confidentiality regime in compliance with Article 6 of this Law.

Article 18. Obligations of personal data holders (possessors) regarding drawing up personal data lists

1. Personal data holders (possessors) handling personal data, within the limits of their competence, shall draw up personal data lists, according to the specific character of their activities, and shall be guided by them.
2. The above-indicated lists shall be approved by the authorised government body on personal data, registered with this body and published in the Register of Personal Data Array Holders (Possessors) annually published by this government body. These lists shall establish the amount of information used by State authorities and local government bodies to exercise their powers.
3. The procedure of personal data lists registration shall be determined by the Government of the Kyrgyz Republic.
4. Personal data arrays holders (possessors), that handle personal data by decision of the Government of the Kyrgyz Republic, shall develop, according to the specific character of their activities, lists of personal data and get them approved by the authorised government body.
5. Personal data lists must conform to the purposes of these data collection. Extension of established lists for achieving purposes of another nature shall not be allowed.

Article 19. Obligations of a personal data array holder (possessor) regarding blocking, unblocking and destruction of personal data

1. Should a subject of personal data find out that the personal data are not veracious or that the personal data array holder (possessor) has carried out unlawful activities therewith, the subject may hand in an application to the holder (possessor) of the personal data array in question or to the authorised body. The holder (possessor) must initiate proceedings in connexion with the subject's application and block his/her personal data from the moment of receipt of the application for the period of application verification.
2. Should it be confirmed that personal data are not veracious, the personal data array holder (possessor) shall be obliged to correct them on the basis of the documents presented by the subject and unblock the data.
3. Should it be established that the personal data collection was unlawful, the holder (possessor) shall be obliged to destroy the relevant data immediately after it is so established and inform the personal data subject thereof in writing.
4. Should it be mutually recognised that the handling of personal data was lawful or that the data are veracious, the personal data array holder (possessor) shall be obliged to immediately unblock them.

5. Should the personal data array holder (possessor) disagree with the personal data subject's application, the conflict situation shall be regulated through administrative or court proceedings.

Article 20. Obligations of a personal data processor

1. A processor shall process personal data on the basis of a contract concluded with a personal data holder (possessor).
2. A processor shall be obliged to collect, record, store, update, block, and destroy personal data irrespective of the method and means of processing upon instructions given by the personal data holder (possessor).

Article 21. Organisational and technical measures of personal data protection

1. The personal data array holder (possessor) and the processor shall be obliged to ensure guarantees regarding technical safety measures and organisational measures governing personal data procession.
2. In the course of processing of personal data, the personal data array holder (possessor) and the processor shall be obliged to:
 - exclude access of unauthorised persons to the equipment used for personal data processing (access control);
 - prevent unauthorised reading, copying, modification or taking out data media (data media use control);
 - prevent unauthorised recording of personal data and modification or destruction of recorded personal data (recording control) and make it possible to find out *post factum* by whom and which personal data have been modified.
 - ensure security of data processing systems that are intended for transporting personal data irrespective of the data transfer means (control of data transfer means);
 - make sure that each user of a data processing system could have access only to those personal data which he/she is allowed to process (access control);
 - make sure that it is possible to find out *post factum* when, by whom and which personal data have been fed into a data processing system (input control);
 - prevent unauthorised reading, copying, modification or destruction of personal data during transmission and transportation of personal data (transportation control);
 - ensure confidentiality of information obtained in the course of personal data processing.

Article 22. Obligations of State authorities and local government bodies regarding exchange of personal data

1. State authorities and local government bodies may use in their work personal data kept by other personal data holders (possessors).
2. Generation of consolidated arrays of personal data received by State authorities or local government bodies from various State holders (possessors) shall be prohibited.
3. Control over the use of personal data received by State authorities, local government administrations and local government bodies from other State holders (possessors) of personal data shall be exercised by higher authorities, law enforcement bodies, and by the Ombudsman (Akyikatchy) of the Kyrgyz Republic in compliance with this Law.

Article 23. Organisation of State information services involving personal data

1. The authorised government body shall keep, with a view to organising information services involving personal data for natural persons and legal entities, a register of primary recording of natural persons based on the data of personal recording stored by State holders (possessors) of personal data legally obtained by them.

2. The authorised government body shall organise information services for natural persons, legal entities, State authorities and local government bodies based on the data of the register of the personal data primary recording register.
3. The procedure of the primary recording register keeping and of the information services organisation shall be determined by the Government of the Kyrgyz Republic.

Article 24. Personal data transfer

1. A personal data array holder (possessor) shall be entitled to transfer these data to another holder (possessor) without consent of the personal data subject in the following cases:
 - urgent necessity for the protection of the interests of the personal data subject;
 - request by State authorities and local government bodies if the requested data list is in conformity with the powers of the requesting authority;
 - on the basis of the legislation of the Kyrgyz Republic.
2. A personal data array holder (possessor) shall be obliged to inform a personal data subject of the accomplished transfer of his/her personal data to a third party in any form within one week.
3. In the event of personal data transfer, the data recipient shall be obliged to comply with the confidentiality regime of such data.
4. Personal data collected using the funds of the State budget shall be transferred to the State authorities and budgetary sphere organisations free of charge. The same is true of personal data transmission to the subject of the data.

Article 25. Transboundary transfer of personal data

1. In the event of transboundary transfer of personal data, a personal data array holder (possessor) that is under the jurisdiction of the Kyrgyz Republic and that transfers the data, shall rely upon existence of an international treaty between the parties by virtue of which treaty the recipient party shall ensure an adequate degree of protection of the rights and freedoms of personal data subjects and of personal data protection established in the Kyrgyz Republic.
2. The Kyrgyz Republic shall ensure legal measures of protection of personal data that are on its territory or are being transferred through its territory with a view to ruling out their distortion or unauthorised use.
3. Personal data may be transferred to countries that do not ensure an adequate degree of protection of the rights and freedoms of personal data subjects on condition of:
 - consent of the personal data subject to this transfer;
 - necessity of the transfer for the protection of the personal data subject's vital interests;
 - the fact that personal data are stored in a publicly available personal data array.
4. When personal data are transferred through a global information network (Internet, etc.) a personal data array holder (possessor) shall be obliged to provide necessary means of protection for the transfer keeping the information confidential when doing so.

Article 26. Anonymising personal data

To conduct statistical, sociological, historical, medical and other scientific or practical research a personal data array holder (possessor) shall anonymise the data that he/she uses putting them in the form of anonymous information. In this case, the confidentiality regime established for the personal data shall be lifted. Anonymising must rule out any possibility of personal data subject identification.

Article 27. Personal data storage

1. Personal data must not be stored longer than necessary for the purposes for which they are collected. The storage period may be prolonged only in the interests of a personal data subject or if this is stipulated by the legislation of the Kyrgyz Republic. As soon as personal data storage period expires and the purposes for which they were collected are achieved, they are to be destroyed within two weeks. Their destruction shall be confirmed by an official written statement.
2. Should a decision be taken, according to the established procedure, to the effect that it is necessary to preserve personal data after their storage period expires and the purposes of their collection are achieved, the personal data array holder (possessor) must ensure the relevant personal data storage regime and inform the data subject thereof.
3. Certain personal data (personnel files, registers of births, marriages and deaths, etc.), after they are no longer needed for practical purposes, may be retained for permanent storage acquiring the status of an archive document or another status stipulated by the legislation of the Kyrgyz Republic.

Article 28. Personal data updating

1. A personal data array holder (possessor) shall introduce modifications into the personal data that he/she has on condition of documented confirmation of the new data veracity:
 - in cases stipulated by the legislation of the Kyrgyz Republic;
 - on his/her own initiative;
 - on the initiative of a personal data subject whose personal data are subject to modification in compliance with Article 11 of the present Law.
2. Introduction of modifications by request of the subject of the data shall be effected within one week of the date on which he/she submits his/her application. Introduction of modifications on the initiative of the holder (possessor) shall be effected in compliance with internal regulations.

Chapter 5.

State regulation of the handling of personal data.

Article 29. Forms of State regulation of the handling of personal data

The State shall regulate handling of personal data in the following forms:

- the Government of the Kyrgyz Republic shall determine the authorised government body of the Kyrgyz Republic;
- it shall maintain records and carry out registration of personal data arrays and their holders (possessors);
- it shall conclude treaties on personal data transboundary transfer, except for cases contravening the legislation of the Kyrgyz Republic that protects State secrets.

Article 30. Registration of personal data arrays and holders (possessors)

1. Personal data arrays and their holders (possessors) are subject to obligatory registration with the authorised government body. At the registration, the following shall be recorded:
 - name of the personal data array;
 - name and details of the personal data array holder (possessor) who handles the personal data array (address, form of ownership, subordinacy, full name of the head, e-mail, and fax);
 - purposes and methods of personal data collection;
 - regimes and periods of their storage;

- list of personal data being collected;
 - categories or groups of personal data subjects;
 - sources of personal data collection;
 - procedure of informing subjects of the collection and eventual transfer of their personal data;
 - measures to ensure preservation and confidentiality of personal data;
 - the person directly responsible for handling personal data.
2. Personal data arrays containing information classified as State secret on the basis of the Law of the Kyrgyz Republic *On Protection of State Secrets of the Kyrgyz Republic* shall not be registered.
 3. The authorised State body shall register personal data arrays and personal data holders (possessors) that handle personal data.
 4. The above-indicated body shall annually give public notice of the Register of Personal Data Array Holders (Possessors) in mass media.

Article 31. Responsibility for a breach of this Law

A breach of this Law shall entail liability under the legislation of the Kyrgyz Republic.

Chapter 6. Final provisions

Article 32. On entry into force of this Law

This Law shall enter into force on the day of its official publication.

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President K. Bakiyev of the Kyrgyz Republic

Adopted by the Zhogorku Kenesh of the Kyrgyz Republic.

Final comment: The AMD collection might include copies of Birth Certificates, Marriage Certificates and other civil status documents. Is there any part in this law we should give special attention to that might affect this collection?