

## **LATEST LEGISLATION AMENDMENTS ON INFORMATION SECURITY, PERSONAL DATA AND DIGITAL ASSETS**

Law No. 44-VIII

Date: 11 December 2023

### **IMPORTANT!**

11 December 2023 marked the adoption of the Law introducing amendments into a number of regulatory legal acts regulating, among other things, the issues of information security, personal data and digital assets. A major part of such amendments will be put into effect starting 11 February 2024, except for certain provisions, which will be made effective since 1 July 2024.

Please see below information on the most important amendments.

### **Amendments to the Law on Personal Data and Protection Thereof**

- A new concept of the "*personal data security breach*" was introduced. It means a violation of the personal data protection entailing illegal dissemination, change and destruction, unauthorized dissemination of the transferred, stored or otherwise processed personal data or unauthorized access thereto.
- The Authorized Agency's<sup>1</sup> competence was expanded and will cover, among other things, the exercise of state control over compliance with the Kazakhstan legislation on personal data and protection thereof in the form of inspections and sending of information to the operator of the information and communication infrastructure of the e-Government on personal data security breaches entailing the risk of violating the rights and legitimate interests of subjects.
- In case of detecting a personal data security breach, the Law provides for the personal data owner's and/or operator's obligation to notify the Authorized Agency within one (1) business day from the moment of detecting such breach, specifying the contact data of a person responsible for organizing the personal data processing (if any)<sup>2</sup>.
- A ban was established on the collection and processing of copies of identity documents on paper, except for the cases of absence of integration with a computer system of a governmental agency and/or state legal entities, impossibility to identify a subject using the technological means, and in other cases stipulated by the Kazakhstan laws.

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<sup>1</sup> Ministry of Digital Development, Innovations and Aerospace Industry of the Republic of Kazakhstan.

<sup>2</sup> This change will be put into effect starting 1 July 2024.

## ■ Amendments to the Informatization Law

- Introduction of such new concepts as *vulnerability*, *information security threat*, *information security operations center*, *information security incident response service*, etc.

The "*information security threat*" means the aggregate of conditions and factors creating prerequisites for the origination of information security incidents.

"*Vulnerability*" is a flaw in a computer system, use of which may result in a violation of integrity and/or confidentiality and/or availability of the computer system.

Understood as the "*information security operations center*" is a legal entity or a structural subdivision of a legal entity carrying out activities on protection of electronic information resources, information systems, telecommunication systems, and other computer systems.

The "*authorized agency in the sphere of ensuring information security*" is a central executive authority carrying out the management and cross-sector coordination in the sphere of information security<sup>3</sup>.

- According to the amendments, starting 1 July 2024, on the basis of the information received from the Authorized Agency, an operator of the information and communication infrastructure of the e-Government<sup>4</sup> will have to notify the personal data subjects on personal data security breaches or personal data processing by sending information to a user account on the e-Government web-portal or to their mobile communications subscriber number in the form of a short text message.

## ■ Amendments to the Law on Digital Assets in Kazakhstan

- The amendments provide for the cases of suspension of licenses for the digital mining activities. On the basis of a resolution of the Authorized Agency, a digital mining license may be suspended for a term from one (1) to six (6) months in cases, as follows:
  - detection of unreliable information when obtaining a digital mining activities license;
  - digital miner's failure to comply with requirements established by the Kazakhstan legislation;
  - failure to eliminate violations within the established period based on the results of an unscheduled inspection by the Authorized Agency;
  - digital miner's failure to submit information to the Authorized Agency on changes in data within the periods established by the Kazakhstan legislation on digital assets;
  - digital miner's voluntary application to the Authorized Agency; and
  - in other cases stipulated by the Kazakhstan laws.

A resolution on suspension of a digital mining activities license must specify the reasons and period of suspension of a license. A digital mining activities license may be renewed

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<sup>3</sup> Ministry of Culture and Information of Kazakhstan.

<sup>4</sup> National Information Technologies JSC.

following a digital miner's application filed in accordance with the procedure established by legislation.

- It is stipulated that the authority depriving of a digital mining activities license is a court.

### ■ **Miscellaneous**

- According to the amendments to the Code on People's Health and Healthcare System, it is prohibited to collect and process copies of identification documents except for the identification documents of immigrants.
- According to the amendments to the Law on Banks and Banking Activities, a person may establish a voluntary refusal to procurement of bank loans or remove such refusal by way of the e-Government web-portal. A bank, organization carrying out certain types of banking operations is prohibited to grant bank loans to a person in case such person's credit report contains information on establishment of a voluntary refusal to procurement of bank loans.

Should you have any additional questions in connection with this Legal Update, we would be happy to provide more detailed information.

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