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Legal Alert

Key changes in 152-FZ “On Personal Data”: How the life of operators will change after the adoption of Federal Law No. 266-FZ of 14.07.2022

On July 14, 2022, the President of the Russian Federation signed Federal Law No. 266-FZ which amends the current legislation of the Russian Federation on the processing of personal data ("Russian Personal Data Law"). According to the explanatory note to the draft of this Federal Law, more than 2500 controllers ("operators") operate in the Russian Federation at the moment transferring personal data of Russian citizens to unfriendly countries without proper protection. Taking into account the existing scale of the data market and the number of active operations, the legislative authority decided to introduce extraterritorial application of certain provisions of the Russian Personal Data Law, as well as to establish additional restrictions for data operators in terms of cross-border data transfer.

The new Federal Law introduces the following key changes:

1. New requirements for personal data processing notifications

Operators will be obliged to notify Roskomnadzor about the start of processing of personal data in the following (not previously regulated) cases:

- recruitment in accordance with labor law
- use of data for conclusion or execution of contracts
- use of data for single entry of a Russian citizen to the operator's territory or for similar purposes

2. Introduction of a permit system for the cross-border transfer of personal data

In certain cases, operators may also be required to notify Roskomnadzor in the future of their intention to transfer personal data across borders. Such notification must be sent not later than 30 calendar days prior to the transfer.

However, cross-border transfers may be prohibited or restricted in order to protect the foundations of the constitutional order of the Russian Federation morality, health, rights and legitimate interests of Russian citizens to ensure the military defense and security of the state.

3. Extraterritorial application of certain provisions of the Russian Personal Data Law

The Russian Personal Data Law will be applied extraterritorially in the following cases:

1. Personal data of Russian citizens are processed on the basis of agreements between Russian and foreign legal entities/individuals/state authorities; or
2. Foreign legal entities/individuals/state authorities operate with personal data of Russian citizens.



4. Duty to notify incidents to GosSOPKA (State System for Detecting, Preventing and Responding to Computer Attacks)

The proposed changes also enshrine the operator's duty to notify authorized state authorities about personal information leaks, for instance, in cases of accidental transfer of personal data. For such notifications, operators will have to use a special state system for detecting, preventing and eliminating the consequences of computer attacks (GosSOPKA).

Through this system, notifications of Roskomnadzor will have to occur within 24 hours from the moment of the accident. The notifications will have to indicate, among other things, the reasons that provoked the leak and the amount of harm caused to Russian citizens.

Roskomnadzor will keep a record of incidents.

5. New requirements for biometric data processing

In cases when the consent to biometric data processing is not mandatory, the operator is prohibited to refuse to provide services to citizens of the Russian Federation who have not provided biometric data and (or) consent to the processing of such personal data.

In addition, the legislative authority introduced a general rule on restricting the biometric data processing of minors (i.e., children under 18) unless such processing is provided for by law.

6. Changes regarding the timing of the operator's responses to requests from personal data subjects

The operators' response time to the requests of the subject of personal data will be reduced from 30 to 10 working days when it comes to:

- informing the data subject (his representative) about the availability of his personal data and providing an opportunity to familiarize himself with them
- sending a written refusal to provide information
- providing the requested information to Roskomnadzor

7. Other changes

The law also provides a number of new provisions regarding the requirements:

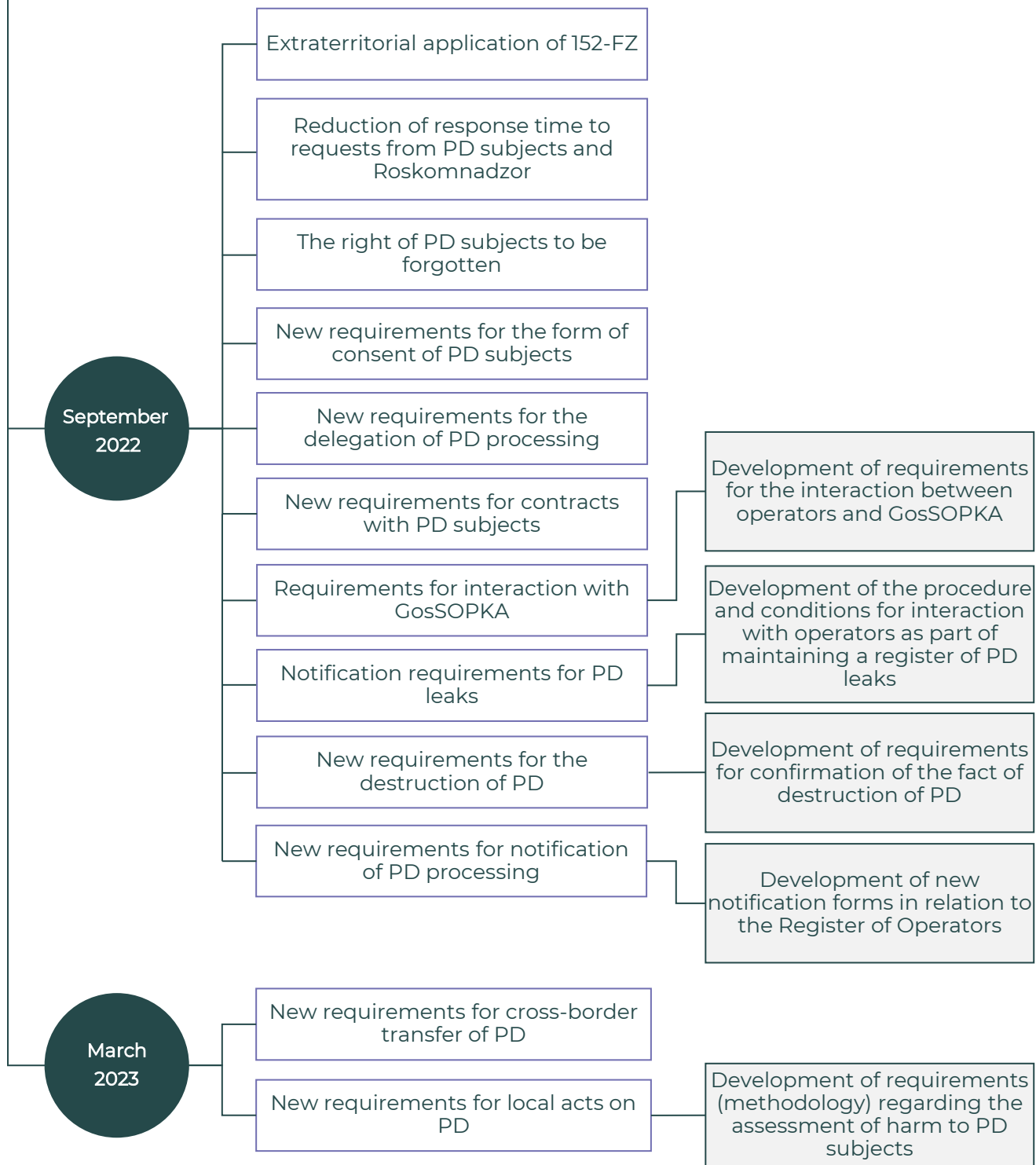
- for contracts with personal data subjects
- to the general order of processing personal data
- to the formalization of the subjects' consent
- to the procedure for confirming the personal data leaks
- to the procedure for confirming the destruction of personal data
- to the methodology for assessing harm to personal data subjects



Latest case law and fines

- Likee social network was fined RUB 1,5 m for refusing to localize the data of Russian citizens
- A court in Moscow fined Google RUB 15 m for refusing to localize the data of Russian citizens
- The Threema messenger was fined RUB 800 000 for refusing to identify the user

Changes to 152-FZ on Personal Data



For further information please
contact



Ksenia Petrovets
Senior Associate

M: +7 921 090 8942
ksenia.petrovets@birchlegal.ru



Anna Lapshina
Associate

M: +7 964 771 4655
anna.lapshina@birchlegal.ru

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