



## PERSONAL DATA: THE PENALTIES FOR VIOLATIONS WILL BE SIGNIFICANTLY MORE STRINGENT FROM 1 JULY 2017

*For the attention of company employees in charge of processing personal data, as well as heads of IT departments and HR departments, and lawyers*

**Pepeliaev Group advises that, from 1 July 2017, there will be substantial increases in fines for violations of personal data legislation.**

On 7 February 2017, the Russian President signed Federal Law No. 13-FZ<sup>1</sup>. This has amended article 13.11 of the Russian Code of Administrative Offences, which establishes administrative liability for violations in the field of personal data (PD).


Currently the article makes provision only for a general head of administrative liability for violations of the set statutory procedure for gathering, storing, using or disseminating PD. The amounts of the fines for these violations are insignificant. The maximum is RUB 1,000 for officers of companies, and RUB 10,000 for companies themselves.

From 1 July 2017, instead of one general head of liability, there will be seven separate heads of administrative liability in the field of PD processing.

The highest fines will be those for processing PD without the consent of the data subject. The maximum levels will be RUB 20,000 for officers of companies and RUB 75,000 for companies themselves.

There will be a significant increase in fines for processing PD: in cases for which Russian legislation makes no provision; or for purposes incompatible with the collection of PD. Here, the maximum levels will be RUB 10,000 for officers of companies and RUB 50,000 for companies themselves.

Fines for the remaining violations will vary from RUB 3,000 to RUB 20,000 for officers of companies and from RUB 15,000 to RUB 45,000 for companies themselves.

As administrative liability should arise for each violation, we would suggest that, when violations are identified (for instance, a lack of written consents to the processing of PD), fines will be multiplied by the number of persons in relation to whom offences have been committed. This will result in significant totals being involved.

There is no change to the limitation period within which administrative liability may be imposed for a PD-based administrative offence. This remains at two months from the date on which the offence is either committed or, for continuing offences, detected.

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<sup>1</sup> Federal law No. 13-FZ "On amending the Russian Code of Administrative Offences" dated 7 February 2017.

Moreover, from 1 July 2017, the regulatory authority Roskomnadzor has won the right to draw up, on its own, a protocol for this category of cases. Until this date, state prosecutors will draw up protocols, but this has often made imposing liability on an offender impossible because the limitation period for administrative liability expires during the time of this lengthy procedure.

### To which companies do the amendments apply

The amendments concern both Russian and foreign companies that are PD operators and that have a presence within Russia through branches, representative offices or subsidiary legal entities.

### What to think about and what to do

Over an extended period of time, the regulatory body authorised to oversee the area of personal data, known by the Russian abbreviation Roskomnadzor, has been seeking to increase the fines for violations in the area of PD legislation. The existing fines offer no incentive for a PD operator to comply with the requirements of the law. The aim of the substantial increases in fines from 1 July 2017 is to force operators to take their obligations more seriously with respect to processing PD.

To mitigate their risks of facing administrative liability for PD violations, we advise companies to check, as soon as they can, whether they comply with the requirements of PD legislation and, before 1 July 2017, to eliminate any violations they identify. Among other things, this will allow them, with respect to potential Roskomnadzor measures of control, to prepare in good time in order to manage, mitigate or exclude risks of administrative liability and other coercive measures being imposed as a result of such control.

### Help from your adviser

Pepeliaev Group's experts have extensive experience of handling issues relating to compliance with personal data legislation. They are ready to provide comprehensive legal support and technical assistance in checking compliance with the requirements of personal data legislation, and in eliminating any violations identified. They also represent a company and its employees when administrative authorities exercise regulatory control and in disputes with such authorities.

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