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LAW ON ELECTRONIC TRANSACTIONS



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With the rapid growth of the digital economy, electronic transactions are becoming more common and increasingly important. This has presented the need for a sound legal framework to safeguard the legal rights and interests of parties in electronic transactions. Therefore, the Law on Electronic Transactions 2023 was promulgated on June 22, 2023 and took effect on July 01, 2024 with many new regulations and major adjustments that not only enlarge the current legal framework but also create more favorable and safer conditions for parties participating in electronic transactions. With an emphasis on personal data protection, authentication of electronic signatures and detailed regulations on electronic contracts, the new law promises many positive changes. This article aims to list out the key changes in the Law on Electronic Transactions 2023 along with its impacts and legal considerations for businesses and individuals.

A. NEW KEY HIGHLIGHTS OF THE LAW ON ELECTRONIC TRANSACTIONS 2023

1. Electronic Signatures

One of the highlights of the Law on Electronic Transactions 2023 is the provision on electronic signatures. To ensure its legality and security, electronic signatures must meet certain technical standards such as: security standards, authentication standards, traceability standards, and legal standards. Compared to past regulations, these new points are better oriented to improved security standards, specifically stipulating the implementation of two-factor authentication and strong encryption algorithms that will bolster the security of electronic signatures. This regulation also contributes to stricter identity verification, by mandating that electronic signatures be authenticated only by licensed authentication service providers after rigorous identity verification processes. Furthermore, the provisions of the Law on Electronic Transactions 2023 also improve the traceability of electronic signatures, by requiring that every electronic signing system keeps a record and stores signing history for transparency and verifiability. Finally, the new regulations clearly affirm that an electronic signature has equal legal status to a handwritten signature and shall thus be admissible in court. In addition to new regulations on electronic signatures, the Law on Electronic Transactions 2023 also clearly

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stipulates that organizations providing electronic signature services must be licensed by a competent authority, and electronic signatures must be authenticated by these organizations to enjoy the same legal validity as hand-written signatures.

2. Data Protection and Privacy Rights

a. Data Management

The Law on Electronic Transactions 2023 sets out strict regulations on the collection, storage and processing of personal data to protect user privacy:

- **Data Collection:** Organizations and businesses may only collect personal data with the user's express consent, unless provided otherwise by the law.
- **Data Storage:** Personal data must be stored securely, using encryption and security measures to prevent unauthorized access, loss or leakage of data.
- **Data Processing:** The processing of personal data must comply with security principles, and may only be carried out for purposes that have been consented to by the user.

b. User Rights

Users have the right to access, modify and request the deletion of their personal data. Businesses must provide clear and convenient mechanisms for users to exercise these rights, ensuring personal data is thoroughly managed and protected.

3. Electronic Contracts

While regulations on electronic contracts have been in place since the Law on Electronic Transactions 2005, the formation of electronic contracts currently remains quite limited. This is partly due to a lack of specific guidelines for the formation of electronic contracts. Moreover, the formation of electronic contracts was previously based on mutual agreement between the parties, making it difficult to ensure the integrity of the contracts that were entered into. Compared to the provisions of the Law on Electronic Transactions 2005, which focused on establishing the legal basis for recognizing electronic contracts as having the same legal status as paper contracts, including regulations on the content and form of electronic contracts, the Law on Electronic Transactions 2023 expands and fleshes out the regulations on electronic contracts. This includes requirements for recording and storing transaction history, protecting data integrity, and mechanisms for dispute resolution.

a. Form and Content

An electronic contract must be in the form of an electronic document and must meet the same content requirements as a traditional

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paper contract. This includes basic terms, rights and obligations of parties and dispute resolution terms.

b. Legal Evidence

An electronic contract has the same legal status as a paper contract and can be admissible in court. This demands that every party strictly follow the signing and storage procedures of electronic contracts in order to preserve their legality.

B. IMPACT OF THE LAW ON ELECTRONIC TRANSACTIONS AND LEGAL CONSIDERATIONS FOR INDIVIDUALS AND ORGANIZATIONS

As the Law on Electronic Transactions 2023 takes effect amid continuous development in the digital economy, businesses should focus on investing in technological security solutions, including two-factor authentication, data encryption and management systems for electronic signatures. This not only helps businesses comply with legal regulations but also protects them from cybersecurity risks. Additionally, businesses should establish and maintain data protection policies to ensure compliance with security regulations and customer privacy. This includes educating staff on new regulations and developing necessary security measures.

For individuals, it is necessary to raise awareness on the protection of personal information online. This includes using security measures such as two-factor authentication, taking care to not share personal data via unsecured channels and regularly assessing access rights to personal data. Users should be clearly informed of their rights to access, modify and delete personal data, as well as their rights to demand enterprises to exercise these rights. This contributes to the protection of individual rights and ensures that personal data is managed securely.

CONCLUSION

The Law on Electronic Transactions 2023 provides clear and detailed regulations about the protection of the rights and interests of parties participating in electronic transactions, and creates a safe and transparent digital business environment. New provisions on identity authentication, data protection and privacy rights, electronic signatures, and electronic contracts not only guarantee the legitimacy of transactions but also enhance trust among users in online activities. Businesses and individuals should fully comply with and implement these regulations to ensure the safety and efficiency of electronic transactions, thereby contributing to the sustained development of the digital economy of Vietnam.

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Bản tin này cùng với các nội dung trong bản tin chỉ nhằm mục đích cung cấp thông tin chung. Chúng tôi không cam kết hoặc bảo đảm về tính chính xác, tính thời sự hoặc sự đầy đủ của các thông tin cung cấp trong bản tin này. Bản tin này không thể hiện quan điểm, ý kiến chính thức hay tư vấn pháp luật của chúng tôi. Bạn không nên sử dụng những thông tin trong bản tin này để thay thế cho việc tham khảo ý kiến tư vấn pháp luật của chúng tôi hoặc của luật sư của bạn. Việc bạn sử dụng các thông tin trong bản tin này không hình thành mối quan hệ “luật sư – khách hàng” giữa bạn và chúng tôi, trừ khi và cho đến khi một thỏa thuận được ký kết giữa bạn và chúng tôi theo đó chúng tôi được yêu cầu tư vấn về vấn đề cụ thể của bạn.

Chúng tôi giữ quyền sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này hoặc bất kỳ phần nào của bản tin mà không thông báo trước. Chúng tôi không chịu bất kỳ trách nhiệm nào về các sửa đổi, tạm ngừng hoặc ngừng vĩnh viễn hoạt động của bản tin này.

Nếu bạn có vấn đề nào cần tư vấn, hãy liên hệ với chúng tôi hoặc yêu cầu luật sư của bạn tư vấn về vấn đề đó cho bạn.

Tất cả các quyền, bao gồm cả quyền sở hữu, quyền tác giả, quyền liên quan và các quyền sở hữu công nghiệp đối với nội dung thông tin, thiết kế, trình bày mỹ thuật của bản tin này thuộc chúng tôi và được bảo vệ theo Luật Sở hữu Trí tuệ Việt nam, các hiệp định, hiệp ước quốc tế mà Việt nam đã ký kết.

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