

**Decree
of the President of the Republic of Belarus**

December 21, 2017 No. 8

On Development of Digital Economy

With a view of development of the Park of High Technologies, innovative sphere and building a modern digital economy in the Republic of Belarus, I decree:

1. To extend till January 1, 2049 the validity period of the special legal regime of the Park of High Technologies with preservation of the principle of extritoriality, additionally granting to residents of this Park the right to carry out in the established order:

educational activity in the sphere of information and communication technologies;

activities in the sphere of cybersport, including preparation of cybersport teams, organization and holding of competitions, organization of their broadcasting;

activity in the sphere of artificial intellect, creation of systems of unmanned vehicle control;

other activities specified in the Regulations on the Park of High Technologies approved by Decree of the President of the Republic of Belarus of September 22, 2005 No. 12.

2. To create conditions for introduction in the economy of the Republic of Belarus of the technology of transaction block ledger (blockchain)* other technologies based on principles of distribution, decentralization and security of operations being performed using them. Taking into account that prior to the adoption of this Decree the circulation of digital signs (tokens) (hereinafter - token) has not been regulated by the legislation and, accordingly, they have not been object of legal relationships, to establish that:

2.1. legal persons are entitled to possess tokens and, having regard to specific features established by this Decree, to perform the following operations:

through a resident of the Park of High Technologies carrying out a respective activity, to create and place own tokens in the Republic of Belarus or abroad;

to store tokens in virtual wallets;

through cryptographic platform operators, cryptocurrency exchange operators, other residents of the Park of High Technologies carrying out a respective activity, to acquire, alienate tokens, to perform other transactions (operations) with them.

Legal persons—residents of the Park of High Technologies are entitled to exercise powers specified in part one of this sub-clause, and other activity with use of tokens in the order established by Regulations on the Park of High Technologies;

* For the purposes of this Decree, terms are used in the meanings determined according to Annex 1.

2.2. natural persons are entitled to possess tokens and, having regard to specific features established by this Decree, to perform the following operations: mining, storing of tokens in virtual wallets, exchange of tokens for other tokens, their acquisition, alienation for Belarusian rubles, foreign currency, electronic money, and also to donate and bequeath tokens.

Activity on mining, acquisition, alienation of tokens, carried out by natural persons themselves without engagement of other natural persons under labour and/or civil-law contracts, does not constitute entrepreneurial activity. Tokens are not subject to declaration.

Individual entrepreneurs – residents of the Park of High Technologies are entitled:

to exercise powers specified in part one of this sub-clause;

through a resident of the Park of High Technologies carrying out a respective activity, to create and place own tokens in the Republic of Belarus or abroad;

to carry out other activity with use of tokens in the order established by Regulations on the Park of High Technologies;

2.3. cryptographic platform operators, cryptocurrency exchange operators are obliged to ensure availability on accounts in the banks of the Republic of Belarus of monetary means in the amount of not less than 1 Mln Belarusian rubles for a cryptographic platform operator, not less than 200 thousand Belarusian rubles for a cryptocurrency exchange operator.

A cryptographic platform operator is entitled:

to open accounts in banks, non-bank credit-and-finance organizations in the Republic of Belarus and abroad for making settlements on trading and operations being carried out by him;

to receive remuneration for services being rendered, including in tokens, to establish its amount and the order of collection from trading participants (customers);

to perform (organize) transactions with residents and non-residents of the Republic of Belarus, aimed at placement of tokens, including abroad, acquisition and/or alienation of tokens for Belarusian rubles, foreign currency, electronic money, exchange of tokens for other tokens in the interests of customers or in own interests;

to perform (organize) other transactions (operations) with tokens, with the exception of operations on exchange of tokens for civil right objects other than Belarusian rubles, foreign currency, electronic money, tokens;

2.4. for transfer of rights certified by tokens to another person, it is enough to transfer the token to this person, with the exception of the transfer of a right requiring the state registration.

Transfer of a token is deemed to be completed in the moment of reflection of the confirmed operation on transfer of the token in the transaction block ledger (blockchain), another distributed information system according to rules (protocols) effective for them.

It is allowed to use tokens as a remuneration for verification, performance of other operations in the transaction block ledger (blockchain), another distributed information system;

2.5. realization of projects in the sphere of information and communication technologies, including with use of the technology of transaction block ledger (blockchain), another distributed information system may be carried out on the basis of public-private partnership agreements.

3. To grant privileges and preferences to participants of relationships related to application of modern technologies. For this purpose to determine that:

3.1. till January 1 2023 shall not be deemed as taxation objects:

with the value added tax and the tax on profit (personal income tax) – turnovers, profit (incomes) of residents of the Park of High Technologies from activities on mining, creation, acquisition, alienation of tokens. In this instance revenue and costs (expenses) from such activity and operations shall not be taken into account for purposes of computation and payment of the tax on profit, and sums of the value added tax presented upon acquisition (paid upon importation) of goods (works, services), property rights, related to carrying out such activity and operations are not subject to deduction;

with the personal income tax – incomes of natural persons from activity on mining, acquisition (including in the form of donation), alienation of tokens for Belarusian rubles, foreign currency, electronic money and/or exchange for other tokens. In this instance expenses of natural persons – individual entrepreneurs from such activity and operations shall not be taken into account for taxation of incomes received from carrying out the entrepreneurial activity;

with the value added tax – turnovers on alienation of tokens, including turnovers on alienation thereof by foreign organisations not carrying out activity in the Republic of Belarus through a permanent representation and not being in this connection put on record in the tax bodies of the Republic of Belarus. In this instance sums of the value added tax presented upon acquisition (paid upon importation) of goods (works, services), property rights, related to carrying out activity and/or operations on acquisition (creation) and/or alienation of tokens;

with the tax under the simplified taxation system – revenue from alienation of tokens by means of their exchange for other tokens;

with the tax on profit – profit from alienation of tokens by means of their exchange for other tokens. In this instance, revenue and costs (expenses) on such operations shall not be taken into account for purposes of computation and payment of the tax on profit.

For purposes of taxation, alienation of tokens, including by means of their exchange for other tokens, shall be considered as realization of property rights.

Tokens, monetary means, electronic money, received as investments by legal persons as a result of creation and placement through residents of the Park of High Technologies of own tokens or exchange of received tokens for monetary means, electronic money shall not be considered as revenue for taxation purposes;

3.2. effect of the currency legislation does not expand to:

natural persons and legal persons (except for banks and non-bank credit-and-finance organizations) that are residents of the Republic of Belarus, while they performed permitted activities specified in sub-clauses 2.1 and 2.2 of clause 2 of this Decree being carried out with use of tokens;

residents of the Park of High Technologies while they perform operations with use of tokens.

In this instance it is not allowed to use foreign currency in settlements between residents of the Republic of Belarus, with the exception of operations (settlements) being performed by such residents among them in systems of cryptographic platform operators or with said operators, and also on foreign trading floors;

3.3. legislation on securities, securitization, requirements on licensing of professional and exchange activity on securities shall not expand to relationships (activity, operations) of residents of the Park of High Technologies with the use of tokens, including on those identical (similar) with relationships (activity, operations) regulated with the said legislation.

Mining, activity of a cryptographic platform operator, cryptocurrency exchange operator, other activity with the use of tokens shall not be recognized as banking activity;

3.4. for purpose of accounting:

tokens arisen (generated) in the process of mining or acquired otherwise shall be recognized as assets;

placement by legal persons of tokens created by them leads to arising of obligations before the owners of those tokens.

Cryptographic platform operators, cryptocurrency exchange operators, other organizations carrying out activity with the use of tokens shall reflect in accounting operations being performed by them, and also to draw up accounting and/or financial reports in the order established by the Ministry of Finance.

Legal status established by this Decree shall expand to tokens acquired (generated) prior to the entry into force of this Decree;

3.5. it is not required to obtain a special permit (license) for carrying out activity on technical and/or cryptographic protection of the information or other authorization documents related to protection of the information, to confirm conformity, to pass state expert examination of means of technical and cryptographic protection of information, other authorization procedures related to the protection of information*, to use information networks, systems and resources of the national segment of the global computer network Internet, placed in the territory of the Republic of Belarus, their state registration for:

residents of the Park of High Technologies – while they carry out activity in accordance with clause 3 of the Regulations on the Park of High Technologies, which is connected with development and/or application of the technology of transaction block ledger (blockchain);

natural persons – while they carry out mining, storage, acquisition, alienation of tokens;

legal persons – while they store, acquire, alienate tokens, perform other transactions (operations) with them.

* For the purposes of this sub-clause, information for protection of which it is not required to obtain authorization documents and to pass authorization procedures is understood information about the private life of a natural person, personal data and also information constituting commercial, bank secret (with the exception of commercial, bank secret of state bodies, other state organizations, economic companies, in the statutory funds of which 50 and more percent of shares (stakes) belong to the state).

Information for protection of which it is not required to obtain authorization documents and to pass authorization procedures may be processed in information systems without observance of the order established by the legislation for technical and/or cryptographic protection of the information in information systems and with application of information protection systems without holding their attestation provided that such information systems and/or information protection systems have been created with participation of resident of the Park of High Technologies or created by third persons and used by a resident of the Park of High Technologies while carrying out activity provided for in indent two of part one of this sub-clause;

3.6. in case of economic insolvency (bankruptcy) of a resident of the Park of High Technologies, subsidiary liability on obligations of such a legal person may not be imposed on the owner of its property, founders (participants) or other persons, including the head, having the right to give instructions mandatory for the legal person or a possibility to determine its actions otherwise, with the exception of cases when economic insolvency (bankruptcy) is caused by the actions of such persons that entailed their bringing to criminal liability.

4. To take measures aimed at increasing the legal protection of the participants in relationships connected with application of modern financial technologies. For realization of these measures, to establish that:

4.1. functions on control over activity of cryptographic platform operators, cryptocurrency exchange operators in respect of their compliance with legislation on prevention of legalization of profits received from crime, financing of terrorist activity and financing the proliferation of weapons of mass destruction are imposed on state bodies in accordance with their competence;

4.2. tokens shall not be referred to means in the meaning determined by the legislation on prevention of legalization of profits received from crime, financing of terrorist activity and financing the proliferation of weapons of mass destruction;

4.3. a cryptographic platform operator shall develop local normative legal acts in accordance with which it carries out its activity, including:

rules regulating the order of trade in tokens;

order of admission of participants for trading and exclusion from the trading participants;

rules of admission of tokens for trading;

4.4. a legal person that created and placed an own token through a resident of the Park of High Technologies is obliged to satisfy demands of the owner of the token, defined upon its creation and placement. Refusal to satisfy demands of the owner of the token with reference to the absence of a ground for the obligation or to its invalidity shall not be allowed;

4.5. activity of legal, natural persons on organizing and/or holding conferences, seminars, lectures, training and other similar events on matters of creation and/or use of the technology of transaction block ledger (blockchain), other technologies based on principles of distribution, decentralization and security of operations being performed using them shall be carried out upon obtaining consent of the state institution "Administration of the Park of High Technologies";

4.6. performance within the framework of control (supervisory) activities in the Republic of Belarus of inspections or residents of the Park of High Technologies without obtaining prior consent of the state institution "Administration of the Park of High Technologies" shall not be allowed.

5. To hold a legal experiment within the Park of High Technologies for approbation of new legal institutions for the possibility of their implementation in the civil legislation of the Republic of Belarus. For this purpose to grant to residents of the Park of High Technologies the right:

5.1. to conclude among them and/or with third persons a convertible loan contract.

Under the convertible loan contract, one party (lender) transfers money to the other party (borrower) into ownership, and the borrower shall, upon occurrence of a circumstance defined by the contract, including that depending on the will of the borrower and/or lender, or upon performance of actions defined by the contract by the borrower or third persons, shall transfer to the lender shares, stake (part of the stake) in the statutory fund of the borrower, being on the balance sheet of the borrower, or increase the statutory fund by the sum of the convertible loan with transfer to the lender of shares issuer of which is the borrower or of a stake (part of the stake) in the statutory fund of the borrower.

The period of such a transfer (increase of the statutory fund), price of the shares, stake (part of the stake) in the statutory fund or the order for its determining, amount and order of payment of interest for using the loan (if they are available) shall be stipulated by the parties in the convertible loan contract.

The borrower is obliged to return to the lender of the granted sum of money (sum of the loan) instead of the transfer of the mentioned shares, stake (part of the stake), to pay interest for using the loan, only if the return of the sum of loan is stipulated by the contract.

Within the validity period of the convertible loan contract, the borrower (its body) shall not bear the duty established by the legislation to decrease the statutory fund by the amount of the value of the stake (part of the stake) in its statutory fund, acquired by the borrower itself (by the sum of nominal values of shares transferred in disposal of the borrower) concerning which the convertible loan contract has been concluded and is not entitled to alienate such stake (part of the stake, share) to other person, unless otherwise established by the contract.

Relationships of the parties arising out of the convertible loan contract are not covered by provisions of the legislation:

on the preemptive right to purchase shares, stakes (parts of the stakes) in the statutory fund of an economic company, on the right of acquisition by the economic company of shares, stakes (parts of stakes) in its statutory fund and on the right of a close joint-stock company to offer to a third person to acquire shares of the given company not claimed as a result of exercise of its shareholders' preemptive right to acquire them;

on formation of the statutory fund of the economic company in part of the inadmissibility of the exemption of the founder (participant) of the economic company from the duty to make a contribution to the statutory fund (payment of shares) by means of a setoff of demands toward the economic company.

Incomes (profit) arising upon conversion of a demand of the lender under the convertible loan contract into shares, stake (part of the stake) in the statutory fund, including incomes in the form of an excess of the price of shares, stake (part of the stake) in the statutory fund on the date of conversion (i.e. on the date of satisfying such a demand) over their initial amount (nominal value) shall not be taxation object for the tax on profit;

5.2. to conclude among them and/or with third persons an agreement on providing option to conclude the contract (hereinafter – option to conclude the contract) and option contract.

In virtue of the option to conclude the contract, one party shall, through an irrevocable offer, grant to the other party a right to conclude one or several contracts on conditions stipulated by the option to conclude the contract.

Option to conclude the contract may be granted for payment and/or another consideration.

The other party is entitled to conclude the contract by means of acceptance of the mentioned offer in the order, time limits and on conditions, stipulated by the option to conclude the contract.

Option to conclude the contract may stipulate that acceptance is possible only upon occurrence of a conditions determined by such an option, including that depending on the will of one of the parties.

Option to conclude the contract must contain conditions that allow to determine the subject matter and other material conditions of the contract to be concluded.

The subject matter of the contract to be concluded may be described by any means that allow to identify it on the moment of acceptance of the irrevocable offer.

Option to conclude the contract shall be concluded in the form established for the contract to be concluded.

Under the option contract, one party, according to conditions stipulated by this contract, is entitled to demand within the period established by the contract from the other party to commit actions determined by the option contract (including to pay monetary means, transfer, provide or accept property, exclusive rights to intellectual activity results). Unless the entitled party declares the demand within the indicated period, the option contract shall terminate.

Within the validity period of the option to conclude the contract and/or option contract, the economic company (its body) shall not bear the duty established by the legislation to decrease the statutory fund by the amount of the value of the stake (part of the stake) in its statutory fund acquired by the company itself (by the sum of nominal values of shares transferred in disposal of the joint-stock company) concerning which the respective contracts have been concluded and is not entitled to alienate such stake (part of the stake, share) to other person, unless otherwise established by the contract.

5.3. to carry out performance and/or execution of transactions by means of a smart contract. A person that performed a transaction with the use of a smart contract is deemed to be duly informed on its conditions, including those expressed by the program code, unless proved otherwise;

5.4. to conclude among themselves and/or with third persons an agreement on reimbursement of property losses that stipulates a duty of one party to reimburse property losses incurred by the other party or a third person, arisen in the event of occurrence of circumstances determined in such agreement and not related to a breach of duties by a party that commits to reimburse them (including expenses caused by the impossibility to execute obligations, by demands by third parties or state bodies, other organizations toward the party of a third person specified in the agreement etc.).

The agreement may determine a limit of reimbursement of property losses or the order of its determination.

The amount of reimbursement of property losses may be decreased by the court in cases when it is proven that a party that incurred the property losses intentionally or due to a gross negligence contributed to increase of the amount of property losses and/or did not take reasonable measures for minimization of the amount of such losses.

A resident of the Park of High Technologies, owner of the property, founder (participant) of a resident of the Park of High Technologies, which provided, upon conclusion of the contract, inaccurate assurances in circumstances having importance for conclusion of the contract, its execution or termination (including those referring to the subject matter, powers to its conclusion, compliance of the contract with the applicable law, availability of necessary special permits (licenses), its financial status, availability of rights to material or intangible assets or referring to a third person, and other), are obliged to reimburse to the other party, upon its demand, property losses caused by the inaccuracy of such assurances and pay penalty fee if such is stipulated by the contract.

Recognition of the contract as not concluded or invalid, establishing the fact of its being null and void shall not exempt from the execution of the mentioned duty. A party that relied on inaccurate assurances in circumstances having material significance for it is entitled, along with the demand for reimbursement of losses, to repudiate the contract, unless otherwise established by an agreement of the parties. In this instance consequences of such repudiation may be determined by an agreement of the parties;

5.5. to conclude among them and/or with third parties an agreement stipulating the duty of one party to reimburse to the other party, upon its demand, losses and/or to pay penalty fee stipulated by such agreement in the event of committing by one party or by its affiliated person of actions resulting in cessation of labour relationships between the other party and its worker (workers) and establishing labour relationships between such worker (such workers) and the former party or its affiliated person;

5.6. to conclude an agreement with a worker in accordance with which the worker voluntarily accept commitment not to conclude within the period determined by such agreement labour and/or civil-law contracts with third persons being competitors of this resident of the Park of High Technologies and also to obligates not to carry out competitive entrepreneurial activity without formation of a legal person, not to act as a founder (participant) of an organization being a competitor of this resident of the Park of High Technologies, not to fulfill functions of its head, not to act as a member of its collegiate governing body.

In this instance, conclusion of the mentioned agreement between a resident of the Park of High Technologies and its worker is allowed in the event if the resident of the Park of High Technologies provided payment for compliance with the said circumstance in the amount of not less than one third of the average monthly salary of that worker for the last labour year, payable for each month of compliance with such commitment after the termination of labour relationships, and the time limit of such commitment does not exceed one year after the termination of the labour relationships between the resident of the Park of High Technologies and its worker. The agreement must determine territorial boundaries of such commitment, specific activity in relation of which it is accepted, liability for the breach of the agreement;

5.7. upon agreement of the parties, to stipulate in contracts between them and/or with third persons, any amount of penalty fee, including one that is greater in comparison with that established by the legislation. In this instance, the amount of penalty fee agreed upon by the parties may not be decreased by the court, with the exception of the event when a clearly disproportionate penalty fee

has been unscrupulously imposed on the party of the contract that did not have real possibility to influence the content of the contract.

6. Residents of the Park of High Technologies are entitled to act as founders (participants, shareholders) of organizations being created (created) abroad, to participate in their governing, including from the territory of the Republic of Belarus, in the order provided by the legislation of respective foreign states. The given right shall also expand to participants (shareholders) of residents of the Park of High Technologies.

7. Upon exercise of any of the entitlements provided in sub-clauses 5.1 – 5.4 of clause 5 of this Decree, to grant to residents of the Park of High Technologies and also to their participants (shareholders) and other third persons being parties of civil-law contract with the mentioned persons a right to issue irrevocable powers of attorney, i.e. powers of attorney that may not be abolished prior to the termination of their validity period or may be abolished only in the instances provided in these powers of attorney. Such power of attorney may be issued for a period exceeding three years from the day of issuance.

8. Subjects of small entrepreneurship being organizations carrying out activity in the sphere of technologies of V and VI technological stages are entitled to conclude with non-residents of the Republic of Belarus convertible loan contracts in the order and on the conditions specified in sub-clause 5.1 of clause 5 of this Decree.

9. Legal persons, individual entrepreneurs, registered as residents of the Park of High Technologies prior to the entry into force of this Decree shall:

carry out activity in accordance with this Decree;

bear the duty established in indent seven of clause 19 of the Regulations on the Park of High Technologies only in relation to activities not carried out by them earlier and planned for carrying out after the entry into force of this Decree.

10. Parts one and two of sub-clause 2.2 of clause 2, indent three of part one of this sub-clause 3.1, indent two of part one of sub-clause 3.2 and indent three of part one of sub-clause 3.5 of clause 3 of this Decree expand their effect to relationships arisen prior to the entry into force of this Decree.

11. To introduce changes in the normative legal acts according to Annex 2.

12. To grant the right:

to the Council of Ministers of the Republic of Belarus jointly with the state institution "Administration of the Park of High Technologies" to explain issues of application of this Decree in part of use in the civil circulation of tokens and carrying out activity with the use of the technology of transaction block ledger (blockchain);

to the state institution "Administration of the Park of High Technologies" to explain issues of application of the Regulations on the Park of High Technologies.

13. The Council of Ministers of the Republic of Belarus shall, within a three-month period:

ensure the bringing of acts of legislation in compliance with this Decree;

take other measures on its realization.

14. The Ministry of Finance shall, within a three-month period, determine the order of accounting of tokens and operations with using them.

15. Until the bringing of acts of legislation in compliance with this Decree, they shall be applied in the part not contradicting it.

16. This Decree enters into force in the following order:

clauses 13, 14 and 17 – after its official publication;

other provisions of this Decree – in three months after its official publication.

17. This Decree is temporary and according to part 3 of Article 101 of the Constitution of the Republic of Belarus shall be presented for consideration of the National Assembly of the Republic of Belarus.

President of the Republic of Belarus

A.Lukashenko