

LATEST AMENDMENTS TO THE KAZAKHSTAN LEGISLATION IN THE POWER INDUSTRY

■ General

According to the [Concept](#) on the Kazakhstan's transition to "green economy", it is planned to reach 3% share of renewable energy sources (the "RES") in the total energy produced in 2020. According to mass media, the actual share of RES in 2020 reached 3.05%. The RES share must reach 10% by 2030 and 50% by 2050.

The Concept also provides for reduction of the number of disposal sites, wider recycling and secondary use, extraction of useful substances and materials, and fuel production on account of waste recovery. According to the Concept, the waste recovery level must be at least 40% of the volume of generated waste by 2030. However, the tariffs established in the waste recycling sphere do not cover the expenses of recyclers and waste removal organizations and, therefore, are not attractive for investors.

IMPORTANT!

Early November and December 2020 marked, with an interval of 4 weeks, the introduction of amendments into certain legislative acts, including in the sphere of power industry, specifically, into the Kazakhstan [Law](#) No. 588-II "On Electric Power Industry" dated 9 July 2004 and the [Law](#) No. 165-IV "On Support to the Use of Renewable Energy Sources" dated 4 July 2009.

The said amendments were introduced to improve the investment attractiveness of legislation in the power industry and waste recycling spheres, eliminate regulation gaps in these economy sectors, including with a view to the indices reached in the course of the Concept implementation.

The most important novelties of the introduced amendments are as follows:

- inclusion of energy recovery in the sphere of energy production using RES;
- stimulation of construction of maneuvering capacities;
- establishment of "through" rate for RES support;
- provision of financial assistance by the Government to the accounting and finance center (the "AFC");
- increase in the effective term of a contract for purchasing the electrical energy for up to 20 years; and
- introduction of centralized sale and purchase of the overflow electrical energy via AFC.

■ Energy Recovery

According to the introduced amendments, organizations active in the field of energy recovery acquired the status of energy producing organizations using RES. Accordingly, such organizations enjoy the state support measures envisaged by the Law on Support to the Use of Renewable Energy Sources. Specifically, Kazakhstan introduces the mechanism of guaranteed purchase of electrical energy by AFC from waste-to-energy plants by analogy with RES, which will contribute to improvement of investment attractiveness of the waste recycling sector.

In light of this, Kazakhstan also determined the competence of the authorized agency in the environmental protection sphere on approval of the threshold auction prices for electrical energy produced by way of energy recovery; on approval of the list of waste not subject to energy recovery; on approval of the list of energy producing organizations applying energy recovery. Local executive authorities were imposed an obligation to ensure the supply of the required volume of waste for an energy producing organization applying energy recovery in accordance with a contract entered into between them.

Requirements to operation of energy recovery facilities must be equal to the [Directive 2010/75/EU](#) of the European Parliament and the European Union Council "On Industrial Emissions (integrated pollution prevention and control)".

■ Stimulation of Construction of Maneuvering Capacities

According to specialists, despite excessive production of electrical capacity in Kazakhstan, there is a shortage of maneuvering capacities depending on the time of a day. Irregular demand for electrical energy (sharp rise in consumption during the evening hours, reduced consumption during the night and day time) leads to the lack of balance between production and consumption of electrical energy. Own regulating capacities are insufficient, in which connection the Kazakhstan system operator is forced to use the regulation of the Russian energy system in the volume of 600-800 mW (provided that own production of electrical capacities reaches 2,000 mW).

Introduction of the method of auction selection of projects for the creation of maneuvering generation is intended to stimulate the construction of respective regulating capacities and contribute to the selection of the most efficient projects from the viewpoint of price for end users. This will also allow setting free a part of the funds applied to purchase regulating services from the Russian energy system and direct such funds to pay for own suppliers' services.

■ "Through" Rate for RES Support

Increase in the number of RES facilities leads to increased burden on other energy producing organizations (so-called "conditional consumers"), which must bear the expenses on support of RES in proportions determined by AFC. Accordingly, at one point conditional consumers bear the losses until adjustment of the threshold rates.

To eliminate this problem the costs of energy producing organizations in connection with the support of RES are separated from the threshold rate and defined as an extra charge above the threshold rate.

This measure is intended to mitigate the risk of insolvency of conditional consumers.

Conditional consumers are:

- energy producing organizations using coal, gas, sulfur-containing raw materials, petroleum products and nuclear fuel;
- electrical energy market entities acquiring electrical energy abroad; and
- certain hydroelectric power stations meeting the established characteristics.

■ **Financial Assistance to AFC by the Government**

The introduced amendments provide for a requirement on provision of financial assistance to AFC by the Government.

It is contemplated that this rule will improve the financial stability of AFC, mitigate the investment risks, reduce the price at the auction selling of electrical energy produced by the RES facilities, and is generally aimed at improving the investment attractiveness of the RES sphere.

■ **Increase in the Effective Term of a Contract for Purchasing the Electrical Energy for up to 20 years**

It is expected that this measure will also contribute to improvement of the investment attractiveness of the RES market and lead to reduction of the auction prices.

■ **Introduction of Centralized Sale and Purchase of the Overflow Electrical Energy via AFC**

Energy producing organizations that are hydroelectric power stations had an obligation to sell the electrical energy produced during the period of environmental water passes at centralized auctions. According to the system operator, approximately 50% of the overflow electrical energy is purchased at centralized auctions by traders whose price formation is not regulated by the state.

The introduced amendments secured an obligation of hydroelectric power stations to sell the overflow electrical energy to AFC, which, in turn, will distribute such low-cost overflow electrical energy among all consumers of Kazakhstan by applying the existing mechanism of centralized sale of RES energy.

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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