

# Legal Alert

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## **Draft Law of the Republic of Kazakhstan On the Introduction of Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan in relation to the Country's Entry to the World Trade Organisation**

Kazakhstan is currently concluding WTO entry talks and is in the process of bringing its legislative base and administrative procedures into line with WTO Agreements, for example with respect to:

- the entry and temporary residence of foreign nationals;
- access to the telecommunications and financial services markets;
- state procurements;
- subsidies and compensation;
- local content with respect to the procurement of goods, work and services from subsoil users and companies with state participation;
- conditions for registering medicines and intellectual property.

For this reason, the following legal acts are due to be changed:

- 1) Laws *On Employment* dated 23 January 2001 and *On Migration* dated 22 July 2011 – to provide certain categories of individuals, in particular managers and specialists who have been temporarily transferred for a WTO member country company to provide services (internal transfer), with free, equal and non-discriminatory rights.
- 2) Law *On Insurance Activities* dated 18 December 2000 – the adjustments allow Kazakhstan residents to enter into agreements with non-resident insurance organisations to insure or reinsure risks related to marine transportation (except for coastal navigation vessels), commercial aviation, the launch and freight of space flights (including satellites), and also the insurance of goods in transit and vehicles themselves, and any liability ensuring from the same. Amendments have also been made allowing Kazakhstan non-residents to open insurance (reinsurance) branches in the country.
- 3) Law *On Patents* dated 16 July 1999 – adjustments clarifying cases for the issue of compulsory licenses.
- 4) Law *On the Subsoil and Subsoil Use* dated 24 June 2010 – amendments regarding local content in goods and services

**The Draft Law is in the drafting stage**

## **Draft Law of the Republic of Kazakhstan On the Introduction of Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan regarding Subsoil Use**

The purpose of the draft law is to improve subsoil legislation by:

- 1) improving standards around registering the State's priority right with respect to only subsoil sites and fields with strategic importance;
- 2) regulating issues related to the prevention of marine oil pollution;

- 3) establishing deadlines for subsoil users to eliminate violations;
- 4) establishing the authorised body for carrying out economic reviews of the technical and economic viability of project documents;
- 5) setting up a single mechanism for creating and operating abandonment funds;
- 6) improving the regulations around contract territory trustee management;
- 7) ensuring the monitoring of compliance with project documents;
- 8) establishing in legislation risks requiring obligatory insurance;
- 9) introducing new types of subsoil use rights;
- 10) reducing the quantity of obligatory contract reviews;
- 11) exempting production contracts from having to agree changes in production volumes up to 20% of the projected maximum;
- 12) changing the procedure for gaining access to geological data;
- 13) eliminating legislative omissions regarding rights to expand contract territories;
- 14) regulating the process for returning contract territories;
- 15) conducting open auctions and issuing licenses under the “first come first served” principle with lease payments for subsoil territory growing annually.

**The Draft Law is currently being drafted**

***Law of the Republic of Kazakhstan On the Introduction of Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan regarding Improvements to the Investment Climate***

The Law has introduced investment improvement related amendments to the following Kazakhstan items of legislation:

- the Tax Code
- the Investment Law
- the Concessions Law
- the Migration Law
- the Employment Law
- the Natural Monopolies and Regulated Markets' Law

The Law introduces a new term – investment priority project, which is a project that:

- is realised by a newly created legal entity with respect to specific priority activities, a list of which has been approved by the government
- stipulates making investments of at least 2 million times the monthly calculation index (approximately KZT 3,704 million or US\$ 20 million)

For the purpose of applying investment preferences for investment priority projects, newly created Kazakhstan legal entities are those that meet the following criteria:

- 1) the legal entity's state registration was done at least 12 calendar months before an application to provide investment concessions was made;
- 2) the legal entity performs operations included in a list of priority activities as determined for the realisation of investment priority projects;
- 3) an investment priority project is realised exclusively within the framework of a single investment contract.

The following activities have not been included in the list of priority activities determined for the realisation of investment priority projects:

- activities in the gaming business;
- subsoil use activities;
- the production of excisable activities.

Legal entities realising investment priority projects will receive the following concessions:

- an exemption from customs duties;
- state non-cash grants;
- tax concessions.

Legal entities realising investment priority projects are guaranteed stability if:

- 1) tax legislation changes in accordance with the Tax Code;
- 2) legislation dealing with the hiring of foreign nationals changes;
- 3) the protection of rights and legal interests are changed by the investment ombudsman appointed by the Kazakhstan Government;
- 4) investor participation in the collection and preparation of documents is reduced as is their direct contact with civil servants – “one-stop-shop” principle.

**The Law enters into force on 24 June 2014, except for certain tax concessions, which enter into force from 1 January 2015.**

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