



Monthly News Digest:

Issue 11

Competition Law

Amended rules for the simplified state regulation of the activities of small natural monopolies

The rules for the simplified state regulation of the activities of small natural monopolies (the "Rules") have been amended in accordance with Minister for the National Economy Order № 335 dated 21 September 2017, so that small natural monopolies now include

airports that service less than 300,000 people per year.

The deadline for small natural monopolies to apply to the authorised body to revise tariffs (prices and fees) and tariff estimates has been changed from 90 to 60 calendar days.

Likewise, pursuant to the amendments, small natural monopolies should attach profit and loss statements to tariff estimates

in the format approved by Minister of Finance Order № 143 dated 27 February 2015.

Public private partnerships

Concession Law amendments

Law № 167-III dated 7 July 2006 *On Concessions* has been amended by Law № 112-VI dated 30 November 2017 dealing with budget law improvements.

Monthly News Digest: Issue 11

One of the most important amendments is the removal of the term “concession tender,” which has been replaced by a process whereby assets are offered for concession in three stages and concession proposals are replaced by a so-called information sheet providing an overview of the concession project.

The term “public partner” has also been changed and stands for the Kazakhstan state bodies that conclude concession agreements in accordance with the Concessions Law and/or a direct agreement with concessionaire creditors.

List of assets which cannot form the object of state-private partnerships, including concessions

Point 1 of article 74 of the Entrepreneurial Code, article 4 of the Concessions Law dated 7 July 2006 and article 6 of the Law *On State-Private Partnerships* dated 31 October 2015 have approved a list of assets which cannot form the object of state-private partnerships, including concessions (the “List”), which includes:

- land, water (except for the transfer of rights to the temporary free use of land), flora and fauna
- specially protected natural areas
- military assets
- trunk railway lines; shipping routes; lighthouses; devices and navigation marks regulating and guaranteeing shipping security; and marine terminals
- water facilities (dams, hydrosystems and other hydrotechnical structures) with special strategic value

- health organisations operating in the blood and HIV/AIDS spheres
- historical and culture assets, and objects of cultural value
- collections and depositaries of infection agents and industrial microorganisms

Immigration and employment law

Guarantee payment requirements for foreign employees withdrawn

Minister for Employment and Social Welfare Order № 314 dated 25 September 2017 has replaced Minister for Health and Social Welfare Order № 167 dated 27 March 2015 which approved rules for employers to pay a bank guarantee for foreign employees.

Until the amendments were made, to get the guarantee back, employers had to receive written permission from the Ministry of Internal Affairs once the foreign employee had left the country.

Now, employers can apply to the bank to which the guarantee was paid and receive a refund. There is no longer a requirement for written permission and confirmation of the foreign employee’s departure from the Ministry of Internal Affairs.

Immigration and immigration control rules amended

Government Resolution № 814 dated 6 December 2017 has amended Government Resolution № 148 dated 21 January 2012.

According to the amendments, immigrants will be entitled to remain in Kazakhstan until their visa, certificate of temporary registration or passport registration insert has expired. Previously, immigrants were entitled to stay

until the end of the registration period indicated in the migration card.

Likewise, migration control rules have also been updated so that foreign nationals entering Kazakhstan on the basis of a visa will be registered when crossing the state border at the address shown by the inviting party in an invitation.

The above amendments enter into force from 1 July 2018.

Subsoil use

New Subsoil Use Code

In December 2017, the Parliament Senate adopted a new Subsoil and Subsoil Use Code together with the corresponding law amending related legislation to bring it into line with the new Code.

The new Code:

- introduces licenses and contractual relations, depending on the type of mineral resource
- provides open access to geological information
- introduces the international CRIRSCO system of reporting mineral resources
- allows subsoil sites to be increased, reduced, split and joined to other sites
- changes the authorities’ approach to the unilateral early termination of subsoil use contracts
- abolishes working programmes
- simplifies state project document review procedures
- introduces a new type of subsoil operation – prospecting

Monthly News Digest: Issue 11

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- ▶ Environmental Law
- ▶ Labour Law and Immigration
- ▶ Commercial Law:
 - Contractual relations
 - Licensing and Regulatory
- ▶ Real Estate
- ▶ Legal Due Diligence
- ▶ Restructuring, liquidation, insolvency



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