

23 May 2014

*To our clients and friends***INFORMATION MEMORANDUM****regarding amendments
to the Republic of Kazakhstan legislation
on permits and notifications**

On 16 May 2014, Kazakhstan adopted a new Law No. 202-V "On Permits and Notifications" (hereinafter, the "Law"), which will enter into legal force starting 21 November 2014. Starting from this date, the current RK Law No. 214-III "On Licensing" dated 11 January 2007 (hereinafter, the "Licensing Law"), will simultaneously become inoperative.

For the purposes of the Law implementation, certain amendments¹ allowing to orderly arrange the permitting system using unified principles and approaches have been introduced into a number of the RK codes and laws (including Civil Code, Tax Code, Law on National Bank of the Republic of Kazakhstan, Law on Normative Legal Acts, etc.).

Provisions of the Law are generally intended to amend the RK licensing-and-permitting and notification systems through their generalization and setting of the unified requirements to procedure for obtainment of permitting documents and carrying out of notification procedures by business entities.

Since introduction of the unified system of permits and notifications is a novelty, essentially, a pilot project in the RK, it is not improbable that implementation of provisions of the Law in practice may entail certain difficulties. This is why improvement of the Kazakhstan legislation is not limited to the above amendments. The Law provides for implementation of the "regulatory impact analysis," the so-called analytical procedure for comparison of benefits and costs of the permitting and notification procedure introduced by the Law allowing to further evaluate the attainment of the state regulation objectives. It is contemplated to introduce relevant amendments into the Kazakhstan legislation on permits and notifications according to results of such analysis.

In this Information Memorandum we have presented a brief analysis of the novelties introduced by the Law.

1. State Regulation Bases in the Sphere of Permits and Notifications

The Law introduces into legislation a number of significant amendments intended to enhance efficiency of the implemented permitting and notification procedures, to reduce administrative barriers and lower the permitting and notification procedure burden on entrepreneurs.

The Law provides that qualification and permitting requirements established by the authorized agencies must ensure the minimum required set of quantitative and qualitative norms and indices sufficient for an applicant, licensee to ensure the required safety level of the upcoming activities and action (operation) or facility.

¹ RK Law No. 203-V "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on Permitting System Issues" dated 16 May 2014.



Furthermore, the Law:

- a) determines as one of the underlying principles the "one window" principle whereunder all necessary approvals of state authorities are to be obtained by the permitting authorities themselves;
- b) introduces general classification of permits to certain categories and classes;
- c) establishes general procedure for consideration of applications and obtainment of permits;
- d) determines a unified procedure for carrying out licensing, permitting procedures and notifications in electronic form;
- e) provides for equality of foreigners, stateless persons and foreign legal entities in case of obtainment of permits, sending of notifications (except for the cases explicitly provided for by the RK legislation) along with certain specific features of submission of documents by foreign legal entities for the issuance of permits.

2. Conceptual Framework

The Law makes more specific definitions of concepts existing in the current legislation, formalizes the terms used in the Licensing Law at the level of concepts and introduces completely new concepts.

For example, the Law has for the first time given definitions of the terms "Permit," "Permitting procedure," "Notification," introduced previously unknown concepts "Historical data" and "Tightening of permitting or notification procedure," and expanded definition of the concept "Qualification requirements."

3. Permits

According to the Law, permits to carry out activities of private entrepreneurship entities are divided into the first and the second categories depending on the level of danger of such activities.

In order to exclude intentional delaying of the issuance procedure by a licensor the Law establishes two types of periods for application consideration – period for consideration of completeness of the submitted set of applicant's documents and a separate period for the consideration of application proper.

The Law preserved a provision that in case of state agency's failure to provide a response to application for permit within the timeframes established by the Law, issuance of a permit is to be deemed approved.

The Law has for the first time established a possibility to alienate a license via its re-issuance to another individual or legal entity without any inspection procedures for compliance of such person with qualification requirements.

Should you have any questions with respect to the Law implementation, we would be happy to provide you with necessary advice.

Best regards,

AEQUITAS Law Firm