

PwC Azerbaijan Times

Issue №8

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Presidential Decree on approval of the Law On Implementation of Investment Projects on Construction and Infrastructure Objects

President of the Republic of Azerbaijan has approved the Law On Implementation of Investment Projects on Construction and Infrastructure Objects and gave the Cabinet of Ministers instructions to adhere other legislative acts of Azerbaijan to this Law. As has been covered in our Issue No. 4, this Law establishes a specific form of project financing called Build Operate Transfer (“BOT”), according to which investors recoup their investments expenses with regard to projects of construction and infrastructure objects through procurement of goods and services provided by the investors to the customers or competent government bodies.

Presidential Decree on establishment and operation of Analysis and Communication Centre for Economic reforms

Current global economic conditions require further expansion of economic reforms, the introduction of new conceptual approaches and more efficient use of existing economic potential. Therefore, for the purpose of expansion of the scope of economic reforms and effective work assurance in this area, President of the Republic of Azerbaijan has established Analysis and Communication Centre for Economic reforms (the “*Centre*”). The Centre is a public legal entity, conducting research and analyses on micro and macroeconomic levels, making proposals on reforms based on these analyses, preparing medium and long-term forecasts and providing state bodies with these forecasts.

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Rules of issuing a confirmation document for import of technological equipment and facilities to holders of investment promotion certificate

This confirmation document shall entitle holders of investment promotion certificates to use discounts set in the Law On Customs Tariff. The administrative proceedings for the issuance of confirming document should be enacted in accordance with the Law On Licenses and Permits. The application for receipt of confirmation document is submitted to the Ministry of Economy of the Republic of Azerbaijan. Together with documents listed in the Law On Licenses and Permits, applicant should present list of equipment, technology and facilities intended to be imported, its price indicated in USD, code of commodity nomenclature of foreign economic activity (TNVD), its name, its quantity indicated in the unit of measure shown in TNVD; copy of sale and purchase contract of goods intended to be imported and copy of the investment promotion certificate. Ministry of Economy shall review the application within seven (7) working days after application has been registered. In case if the Ministry of Economy finds gaps in the application, the applicant shall be notified about the gaps and shall be given an opportunity to eliminate them. In fact, the above Rules should start working effective 1 June 2016, when the Law On Licenses and Permits will come into force.

Brief comparison of the new licensing rules with the old ones

The new Law On Licenses and Permits law will come into force on 1 June 2016. Aim of this new Law is to create a favorable environment for the devolvement of business by simplifying the process of license and permits obtainment.

The new Law shed lights to previously obscure aspects of license obtaining by setting

out criteria for activities requiring license or permits; list of authorities granting licenses and permits and their powers and functions; rules of obtaining, renewal and termination of license; validity periods of licenses or permits, as well as amounts of state duties payable for that. The new Law introduces notion of Electronic Portal on Licenses and Permits and a Single Registry for Licenses and Permits, while old licensing rules regulating the issuance of license and permits in Azerbaijan were coordinating only surface matters of this quite important legislative aspect.

The new Law brings to the licensing legislation new principles of state control over licenses and permits such as:

- a “single-window” principle;
- notion of silent consent in regard to issuance, renewal, suspension, resumption and cancellation of licenses and permits (in case if license issuing body does not respond to license or permit application within time frame established by the Law, such application will be treated as consented, and information regarding new license or permit shall automatically be added to the Single Registry for Licenses and Permits);
- proportionality of interests of entrepreneurs, society and state when issuing license and permits (for elimination of misconduct addressed to competition restrictions in the market); and
- analysis of regulatory body influence (analysis is made by the body issuing licenses and covers evaluation of impact of new laws on licensing and permits on entrepreneurship; evaluation of achievement of the goals set by the new laws).

The other major clarification made by the new Law is adding a separately defined notion of “permits” that was not properly covered by the old licensing rules.

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The old licensing rules have established a legislative foundation for regulation of license related matters, however have not formed an appropriate one for permits. This gap was sufficiently filled by introduction of definition of “permits” to the new Law, which defines “permit” as an official document granted by the authority issuing permits to exercise certain business activities or actions. The New Law contains an explicit list of 87 types of activities requiring obtainment of permits.

Moreover, the procedure of issuance of licenses and permits has also been changed. Thus, contrary to the old licensing rules requiring submission of applications to the authorized body, effective 1 June 2016 applications shall be made via Electronic Portal on License and Permits, which will enable to conduct all operations related to licensing (e.g. obtainment of licenses, their duplicates, and amendments thereto, renewal, suspension, resumption and termination thereof). Period of issuance of licenses and permits has been decreased to ten (10) working days for license obtainment and seven (7) working days for permit obtainment. Other addition made by the new Law is notification of the applicant regarding gaps in their applications and opportunity to eliminate these gaps within ten (10) working days upon receipt of the notification. The period of license validity has been increased from five (5) years to an undefined period. Licenses issued before the new Law comes into force will be valid until their expiration date and can be renewed according to the new Law.

Finally, the new Law reduces the list of licensable activities from 58 to 29 (including activities related to national security).

According to the Presidential Decree On implementation of the new Law on Licenses and Permits, effective 15 March 2016 the Cabinet of Ministers is instructed to prepare and introduce to the President:

- its recommendation package on adherence of other normative legal acts to the Law on Licenses and Permits - within 2 months;
- its recommendation package on amending the Law on State Duties - within 15 days;
- a Draft Law on administrative liability in case of violation of the Law - within 1 month;
- The list of permits issued by international organizations and recognized in the Republic of Azerbaijan and form of their recognition in Azerbaijan - within 1 month;
- The list of permits on which relevant information should be sent to the Ministry of Taxes of the Republic of Azerbaijan
- form of license blanks and order form thereof and the rule of accounting of their use - within 1 month;
- rules of conducting unite registry of licenses and permits – within 1 month; and
- resolve other matters arising from the Law.

The Presidential Decree also determines responsibly bodies for carrying out different activities related to the issuance of licenses and permits.