

# Environmental kaleidoscope: How will the new Environmental Code impact your business?

## In brief

On 2 January 2021 the new Environmental Code of Kazakhstan (Code) was signed by the President. Work on the Code was carried out over several years which resulted in a consolidated package of strategic norms in a document based on best international practice. We are pleased to offer you our Environmental Kaleidoscope - a series of reviews on key aspects of the Code.

## In details

The Code is a qualitatively new document that contains a number of significant regulatory novelties. In this first issue, we will briefly overview five of the most important aspects of the Code. More details on each of them and on other important aspects of the new regulatory framework will be provided in subsequent alerts.



### 1. The "polluter pays" principle

One of the main innovations of the Code is an international principle of "the polluter pays and corrects". This implies steps to prevent and control pollution, as well as responsibility for restoring the damage caused to the environment. Thus, polluters will have to take appropriate measures to prevent negative impact on the environment, and in case of environmental damage, restore the environment to its original state.



### 2. Complex environmental permits and BAT

The Code also introduces a new definition of polluters and their classification into categories depending on the level of the hazardous impact of business activity on the environment. The most dangerous (hazardous) types of activity represent Category I, which also implies more strict regulation. Thus, for objects (activities) of Category I, transition to complex environmental permits (CEP) is compulsory with a condition to introduce the best available technologies (BAT). According to the Ecological Ministry, in the first stage, it is planned to transition the 50 largest oil and gas, mining and metallurgical, chemical and electric power companies, which account for 80% of pollution, to BAT.



### 3. Environmental payments and direct spending

It is expected that operators of new facilities that have received CEP and implemented BAT, exemption from emission payments will be offered. The same mechanism is provided for existing enterprises but they need to develop and implement a program to improve environmental efficiency and introduce BAT to be exempt from emission payments.

It is expected that the emission fees for existing objects of the Category I that have not received CEP will be increased exponentially, i.e. 2, 4, 8 times every 3 years. For the 50 largest objects of Category I (i.e. most polluting ones), such an increase will begin from 2025, and for the remaining facilities\activities of Category I - from 2031.

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The legislator paid specific attention to the issue of targeted spending on environmental protection measures. Currently, only about 45% of the funds from emission fees are allocated to environmental protection locally, i.e. at the place of emission, since the current legislative framework does not require targeted allocation of received environmental payments. In accordance with the new Code, 100% of such funds will be used to finance environmental protection measures at the place of pollution. This will support the polluter pays principle in practice.



### 4. EIA

The changes in the regulatory framework also affect the process of environmental impact assessment (EIA): this procedure will become mandatory only for enterprises' activity of Category I. Objects of Category II will be subject to screening procedure, the aim of which is to determine whether or not an EIA is necessary.



### 5. Waste management

The Code also introduces a new waste classification that corresponds to the European catalogue. It aims at step-by-step and circular waste management: minimization of waste generation, reuse of waste generated, recycling, disposal and landfill disposal.

In addition, for the implementation of activities for the processing, disposal and destruction of hazardous waste, a licensing procedure is introduced. And for transportation, a notification procedure for those types of business that carry out such activity.

With the adoption of the Code, associated changes are made to the Code of Administrative Offences in terms of tightening administrative liability for violation. Amendments have been also introduced to several other laws and codes including the Entrepreneurial Code, Tax Code, Criminal Code, Forestry Code, Water Code, Land Code, Law on permits and notifications, Law on civil protection, Law on public administration, Law on development of agro-industrial complex and rural areas, Law on mandatory environmental insurance. We will cover some of these in subsequent alerts.

The Code will enter into legal force on 1 July 2021, with a transition period for certain provisions to enable business to assess the impact, prepare and be compliant.



### How we can help you?

We will be glad to discuss with you the innovations of the Code. Please follow our regular issues of the Environmental Kaleidoscope newsletter and get in touch, if you are interested to know more about Code's specifics and what it means for your business.



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