

Insight

27 May – 23 June 2013

Russian Legislation Update

Procurement

On 7 June 2013 the President signed Federal Law No. 115-FZ amending Article 1 of Federal Law No. 223-FZ “On Procurement of Goods, Works, Services for Certain Types of Legal Entities.”

According to Procurement Law No. 223-FZ, Russian companies specified therein are required to procure goods, works and services in accordance with their internal procurement regulations and to comply with some other requirements related to such procurement. Those companies include, among others, natural monopolies, companies performing regulated types of activities in the areas of power, gas, heating and water supply, water disposal, sewage treatment and waste disposal, as well as subsidiaries of those companies and subsidiaries of those subsidiaries. (For more details, refer to our update for 24 December 2012 – 13 January 2013).

The amendments now seek to exclude from the scope of the Procurement Law relations involving conclusion and performance of contracts that are mandatory for the players on the wholesale market for electric power and (or) capacity according to the electric power laws.

The Law entered into force on 7 June 2013.

Electric Power/Renewable Energy Sources

On 28 May 2013 the Government issued Resolution No. 449 “On a Mechanism for the Support of Renewable Energy Sources on the Wholesale Electric Power and Capacity Market.”

The Resolution establishes a mechanism to support the use of renewable sources of energy for power generation in Russia through the wholesale market for generation capacity. (The capacity market provides means for power generators to receive certain capacity payments in return for maintaining their facilities in readiness to generate.)



For more information, please contact:

Igor Ostapets

Partner

+ 7 495 787 3019

iostapets@whitecase.com

Irina Dmitrieva

Partner (Tax)

+ 7 495 787 3003

idmitrieva@whitecase.com

In This Issue:

- Procurement
- Electric Power/ Renewable Energy Sources
- First Reading: Public Sector Companies

This update is a general summary of recent developments in Russian legislation and should not be treated as legal advice. Readers should seek the advice of legal counsel on any specific question. All translations of terminology in this update are unofficial.

ATTORNEY ADVERTISING. Prior results do not guarantee a similar outcome.

White & Case LLC
Tel + 7 495 787 3000
Fax + 7 495 787 3001
whitecase.com

The Resolution provides for an annual competitive selection of investment projects for the construction of renewable generating facilities to be organized by the commercial operator, OJSC "Administrator of the Trading System of the Wholesale Electricity Market." The first such tender is due to be held no later than 30 September 2013. Renewable generation projects selected through this process qualify for long-term agreements on the delivery of renewable capacity, under which the project sponsor is entitled to capacity payments over a 15-year supply period. The payments are calculated on a basis set out in the Resolution that is intended to allow for recovery of capital invested and a certain level of return.

The Resolution also promotes localization of renewable projects (i.e., domestic production within Russia of the equipment used), by requiring that projects must meet minimum projected levels of localization in order to qualify for the selection process, and applying a significant discount to the capacity payments received by projects that do not in fact meet the target level. The target levels for the degree of localization are set out in the Program (discussed below).

The Resolution entered into force on 11 June 2013.

On 28 May 2013 the Government issued Decree No. 861-r "On Amendments to Guidelines for State Policies in Increasing the Effectiveness of Use of Renewable Energy Sources for the Period until 2020" (the "Program").

The Program, approved by Government Decree No. 1-r dated 8 January 2009, outlines steps by state authorities to promote greater use of renewable energy sources, and establishes targets for electricity generation using renewable energy sources. Pursuant to the amendments, the Program establishes targets for new capacity to be installed to use renewable generating facilities of each type (i.e., wind, solar and hydro power). In particular, the target is to install almost 6,000 MW of new capacity by 2020 (now the total installed capacity does not exceed 2,200 MW). The Program also establishes target levels for the degree of localization of renewable generating facilities, including: (i) wind projects, 35% for 2014, rising to 65% from 2016; (ii) solar projects, 50% for 2014, rising to 70% from 2016; (iii) and hydroelectric projects, 20% for 2014 (with capacity less than 25 MW), rising to 65% from 2018.

The Decree entered into force on 28 May 2013.

First Reading

Public Sector Companies

On 24 May 2013 the State Duma adopted in the first reading Draft Law No. 252441-6 "On Public Sector Companies in the Russian Federation and Amending Certain Other Legislative Acts of the Russian Federation."

The Draft Law proposes to introduce the organizational form of a "public sector company" (the "PSC") into Russian Federation law, aiming at the reorganization and liquidation of state corporations and the state company "Avtodor".

According to the Draft Law, a PSC is a unitary non-commercial organization which may be established under a special federal law or a decision of the Russian Government and operates in the interests of the state and society. Among other things, the Draft Law provides for the structure of a PSC's governing bodies, its property-related status, and certain specific features of its economic operation. In particular, the Draft Law seeks to establish that the PSC is liable for its obligations with all its property while the Russian Federation is not liable for the PSC's obligations. Also, the PSC may invest its temporarily surplus funds in items approved by the Russian Government and on the terms and conditions established by it.

The provisions of the Draft Law will apply if adopted by the State Duma in three readings, approved by the Federation Council, signed by the President and officially published.