

ClientInsight

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Russian Legislation Update

Nuclear

On 11 July 2011 the President signed Federal Law No. 190-FZ “On Radioactive Waste Management and on Amending Certain Legislative Acts of the Russian Federation.”

The Law is prepared in accordance with the “Plan of Measures for Implementing National Policy to Ensure Nuclear and Radioactive Safety of the Russian Federation,” approved by Government Decree No. 2237-r dated 17 December 2005. It defines the legal framework for handling radioactive waste, including waste generated before the Law enters into force. The Law does not apply to nuclear waste (spent nuclear fuel).

Under the Law, a unified state system for radioactive waste management in Russia will be created. “Rosatom” (The State Atomic Energy Corporation) and authorized legal entities (national operators) appointed by the Government in coordination with Rosatom will manage and implement works regarding radioactive waste management.

The Law also sets out a detailed procedure for the storage and disposal of radioactive waste. In particular, it obliges radioactive waste producers to ensure waste safety prior to their disposal or transfer of such waste to national operators for further disposal. Disposal works are to be financed by such waste producers. The Law also addresses certain matters of imports into and exports from Russia of such waste.

The Law entered into force on 15 July 2011, save for certain provisions.

Energy

On 21 July 2011 the President signed Federal Law No. 256-FZ “On Safety of Fuel and Energy Complex Facilities.”

The Law establishes the legal framework to ensure the safety of fuel and energy complex facilities in Russia, to prevent illegal actions against such facilities. (The Law does not apply to nuclear energy facilities.) Additional requirements are established in relation to linear facilities (e.g., pipelines) and the gas supply system. The Law defines the powers of the federal and regional authorities in this area, as well as the rights, obligations and liability of legal entities that own or possess such facilities.

The Law will enter into force on 25 October 2011, save for certain provisions.

State Support for Investment Projects

On 18 August 2011 the Government adopted Resolution No. 688 “On Amendments to Certain Governmental Acts on the Provision of State Guarantees for Implementation of Investment Projects, Including Projects on Energy Savings and Greater Energy Efficiency.”

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The Resolution amends the “Rules for the Selection of Projects and Recipients of State Guarantees with respect to [Bank] Loans or Corporate Bonds Raised to Implement Investment Projects” (approved by Government Resolution No. 1016 dated 14 December 2010). The amendments now expand the list of investment projects for which State guarantees may be granted, to include projects in the area of energy savings and greater energy efficiency implemented under the state program for “Energy Savings and Greater Energy Efficiency for the Period until 2020” (approved by Government Directive No. 2446-r dated 27 December 2010).

The amendments revise the criteria investment projects seeking the state guarantees are to meet. In particular, in the area of energy savings and energy efficiency: 1) the overall value of a project is to be no less than RUB 1 bln; 2) the share of the state (federal, regional or municipal authorities) is not to exceed 49%; and 3) the recipient of state guarantees may not be a tobacco or alcohol producer or seller. The Resolution also sets forth for requirements that financial consultants to state-supported investment projects are to meet.

The Resolution enters into force on 30 August 2011.

Oil Export Duty

On 24 August 2011 the Government adopted Resolution No. 714 approving new rates of export customs duty on crude oil and crude-oil products exported beyond the borders of the Russian Federation to countries outside of the Customs Union.

The Resolution increases the rate of customs duty payable on crude oil and crude-oil products extracted from bituminous formations (TN VED 2709 00) exported outside member-countries of the Customs Union (Russia, Belarus and Kazakhstan). The new rate is set at USD 444,1 per ton (the previous rate was US\$438,2 per ton).

The new rate applies as of 1 September 2011.

Court Practice: Bankruptcy of Individual Entrepreneurs

On 30 June 2011 the Plenary Session of the Russian Supreme Commercial (Arbitrazh) Court issued Resolution No. 51 “On Bankruptcy of Individual Entrepreneurs.”

The Resolution clarifies a number of issues arising in court practice in connection with the review of cases on the bankruptcy of individual entrepreneurs. In the absence of a specific law on this issue, such cases are regulated by Chapter X (Articles 214-216) of Federal Law No. 127-FZ “On Insolvency (Bankruptcy)” and relevant provisions of the Civil Code.

The Resolution addresses such issues as bankruptcy indicia, appointment of a bankruptcy administrator, seizure (arrest) of property of a bankrupt entrepreneur, and invalidity of transactions. In particular, an individual entrepreneur can be declared bankrupt even if his/her debts are less than his/her assets. On the other hand, an entrepreneur shall be held liable for initiating insolvency procedures when he/she is still able to fully repay the creditors, as well as for not taking measures to contest unreasonable claims of an applicant requesting his/her insolvency.

If the entrepreneur possesses a large property complex (enterprise), financial rehabilitation and external management procedures can also be applied to such bankrupt entrepreneur (by analogy of law). Furthermore, transactions made by an individual entrepreneur with his/her property (even if those are conducted to repay debts to the creditors) are invalid if it is necessary to dispose of the arrested property. However, an individual entrepreneur may apply for court permission to remove arrest from the property to repay the debts.

The Resolution is mandatory for lower courts when considering similar issues.