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LEGAL NEWSLETTER FOR MAY 2019

Dear Clients and Partners,

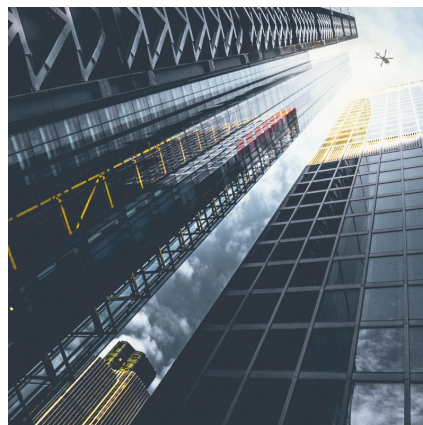
In May 2019, several important laws were adopted or came close to being adopted, including the Law on Public Private Partnership, the Law on Privatization of Non-Agricultural Land Plots and the Law on Renewable Energy. The adoption of the first one seems to mark an important step in the development of a new for Uzbekistan legal mechanism for attracting investment into various industries, which is going to supersede some previously existed obsolete legal constructions. Some targeted legal acts were also adopted in May, which mainly affect foreign trade, the construction industry, the usage of intellectual property and the electrotechnical industry.

We also pleased to inform you that we have now moved to a new spacious office at [40a Mustakillik str., Tashkent, 100000, Uzbekistan](#). We will be more than glad to see you all there for discussing your current and new commercial projects in Uzbekistan or just for exchanging recent news on changes in the Uzbek business environment.

PPP Legislation in Uzbekistan:

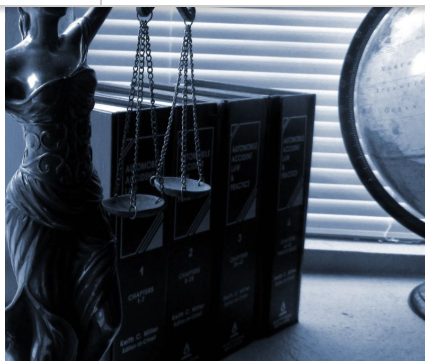
Adoption of the PPP law

The Uzbek Law “On Public – Private Partnership” No. ZRU – 537 (the “**PPP Law**”) has been adopted on May 10, 2019. It shall take effect on 10 June 2019. Unofficial English version of the PPP Law can be found at [here](#). The Law provides a legal framework for co-operation between the public and private sectors, when developing public infras...[Read more](#)



Labour law reforms

On April 12, 2019, the Minister of Employment and Labour Relations released a concept of the new Labour Code (the ‘**Concept**’).



that is planned to be adopted this year is aimed at positively affecting SME businesses in Uzbekistan.

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1. THE LAW ON PUBLIC-PRIVATE PARTNERSHIP

[The Law on Public - Private Partnership](#) ("PPP") has been adopted and will enter into force on June 10, 2019. In accordance with the Law, the PPP Development Agency under the Ministry of Finance will serve as the central PPP support and development unit in Uzbekistan. PPP agreements may be concluded for a period from 3 to 49 years between eligible private partners and the state represented by authorized state agencies and state-owned enterprises. Tender biddings have to be organized to select a private partner, whereas direct negotiations are possible only in limited cases, as listed by the Law. Projects initiated by private parties are subject to approval by a public partner, the Agency, or the Cabinet of Ministers, depending on the total project cost, and private participation in them is also subject to tender bidding after a concept of the project is approved.

The Law also defines some general rights and obligations of parties to PPP. It is also provided that all projects being implemented will have to be recorded in a special state register, which will be open for public access.

[Law No. ZRU – 537 of May 10, 2019](#)

2. THE LAW ON RENEWABLE ENERGY

[The Law on the Use of Renewable Energy](#) has been adopted. The Ministry of Energy is a specially authorized state body in the field of renewable energy. Producers of electric energy, heat energy and/or biogas from renewable sources are entitled to sell them to legal entities and individuals based on separate contracts through their own local networks. Producers of electric power may get access to the state-controlled single power grid and sell electricity to local distribution grids (being state-owned enterprises). There is no much clarity with respect to the rules for price setting in either cases (it is stated in the Law that tariffs for energy from renewably sources have to be defined based on the results of competitive bidding); therefore, probably, subordinating legal acts will be able to elucidate the matter.

Further, in accordance with the Law, legal entities and individuals shall be granted tax and customs duty exemptions when importing renewable energy installations, the use of which promotes energy efficiency. Renewable energy producers are exempt from the property tax for renewable energy installations and the land tax on the sites occupied by these installations (with a capacity of 0.1 MW or more) for a period of 10 years from the date of their commissioning.

[Law No. ZRU – 539 of May 21, 2019](#)

3. THE LAW ON PRIVATIZATION OF NON-AGRICULTURAL LAND PLOTS

On May 3, 2019, the Uzbek Parliament approved the draft Law on Privatization of Non-Agricultural Land. Now, it is awaiting its approval by the President. Residents of Uzbekistan (individuals and legal entities) will get the right to privatize non-agricultural land plots, which are necessary for legal entities' production purposes, individual's residential construction purposes and some other needs. Land plots may be privatized where (a) they have been received for permanent use or for lifetime inheritable possession; (b) through organized online auctions. The draft also provides for the types of land plots that may not be subject to privatization and sets that privatized land plots may only be re-nationalized for social and state purposes and upon obtaining owner's consent. If signed by the President, the Law will come into force on July 1, 2019.

4. CREATION OF AN EXPORT PROMOTION AGENCY

The Regulation for the Export Promotion Agency under the Ministry of Investment and Foreign Trade has been approved. This document sets forth the main functions of the Agency, including, among others, (i) providing information and advisory support to exporters on matters of marketing, pricing, transport logistics, certification, standardization and quality controls, tax and customs procedures, foreign market access conditions, based on the one-stop shop principle, (ii) assisting in searching for potential foreign customers, (iii) helping to negotiate, formalize and close relevant export transactions, (iv) providing exporters with the data on available preferences and benefits, and (v) providing financial assistance for the introduction of international systems of standardization and certification, and the registration of national products with foreign authorized bodies. The Agency will also establish representative offices abroad.

[Resolution of the Cabinet of Ministers No. 373 of May 6, 2019](#)

5. STATE SUPPORT FOR EXPORTERS

A Presidential Decree providing for measures for supporting exporters has been adopted. Some of these measures are briefly described below.

First, the State Fund for Supporting the Development of Entrepreneurship under the Cabinet of Ministers will provide exporters with a surety for up to 50% of the amount of a particular pre-export loan, but not in excess of UZS 4 bln, and a financial compensation covering the interest on a pre-export loan (with certain limits having been set).

Secondly, the National Company for Export Import Insurance Uzbekinvest will begin to offer to exporters various insurance products, including insurance of loans to purchasers, of accounts receivable, and loans for replenishment of working capital.

Some other support measures include the provision of subsidies for compensating costs of transportation by rail; deferral of VAT; financial assistance for obtaining necessary licenses, permits, and certificates in foreign

competitions.

Presidential Decree No. UP - 4337 of May 24, 2019

6. STATE SUPPORT FOR MANUFACTURERS

The state will support producers of some categories of highly demanded products by (i) providing a surety of the State Fund for Supporting the Development of Entrepreneurship under the Cabinet of Ministers for up to 50% of the amount of a loan taken for implementing an investment project for the production of highly demanded product; (ii) causing the Fund to reimburse the interest on loans of commercial banks at the level of up to 5%, provided for furthering the production of highly demanded goods. A list of highly demanded products has already been approved and now includes more than 100 items, including equipment for greenhouses, syringes with needles, electric kettles, etc. A technopark will also be established at the territory of JSC "Tashkent Mechanical Plant" with entities engaged in the production of highly demanded goods getting the right to place its production facilities there.

It is also envisaged that a unified online system will be created for facilitating trade in industrial goods for legal entities. The system will be synchronised with the state portal for public procurement that will allow both state purchasers and private suppliers engage in procurement more effectively.

Presidential Decree No. PP – 4302 of May 1, 2019

7. IMPORT OF TECHNOLOGICAL EQUIPMENT

A list of technological equipment exempted from import customs duties and the value added tax levied after import into Uzbekistan has been amended. A number of items have been excluded from the list, making customs privileges no longer applicable to 21 types of technological equipment, including water purification and bottling equipment with heating and cooling functions, equipment for the production of tobacco, equipment for the processing of tea and coffee. These changes will come into force on August 2, 2019.

Resolution No. 2436-9 of May 2, 2019

8. THE SETTING OF CUSTOMS DUTIES AND BENEFITS

The Regulation on the main tasks, functions, rights and the organization of the Council for the Tariff and Non-Tariff Regulation under the Ministry of Investment and Foreign Trade has been adopted. It has been set that the Secretariat of the Council will begin to accept proposals for the optimization of tariff rates for customs duties and granting/cancelling privileges on customs payments. Proposals may be submitted in written or electronic form in any language. Decisions on applications are taken within 30 days after the date of submission. Applicants are informed on the outcome within 3 days after the decision is made.

Resolution of the Cabinet of Ministers No. 408 of May 15, 2019

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The Regulation on the Licensing of the Development of Architectural and Urban Planning Documents has been approved. The following documents are required to obtain the license: (i) a completed standard application form; (ii) copies of graduate diplomas of engineers and architects engaged in the project; (iii) copies of relevant employment orders and (iv) copies of documents confirming the applicant's ownership of necessary buildings and structures as well as equipment and inventory. The license can be obtained online or in person. The relevant state fee is 3 times the MMW (approximately USD 72). Within 7 business days after all the required documents are submitted and reviewed, an applicant receives the relevant invoice for paying the state fee. After the fee is paid, the license is issued within 1 working day.

[Resolution of the Cabinet of Ministers No. 381 of May 7, 2019](#)

10. FINES FOR INFRINGING THE URBAN CONSTRUCTION LEGISLATION

The amendments to the Code of Administrative Liability have also affected the urban construction sector. Fines for many relevant infringements may now be imposed on both individuals and managers of legal entities. The fines for managers of legal entities have been substantially increased. A penalty for the construction on illegally captured land plots with the fine of 100-150 times the MMW for managers of legal entities has been introduced. A fine for the illegal capturing itself has been substantially increased.

[Law No. ZRU – 534 of May 2, 2019](#)

[Law No. ZRU – 526 of March 4, 2019](#)

11. SUBSIDIES FOR THE CONSTRUCTION OF HOTELS

On January 5, 2019, the Government launched a compensation programme, under which a part of the investor's costs of the construction and equipping of hotels may be compensated from the state budget (<https://kostalegal.com/legal-alerts/government-incentives-for-tourism-sector-investment>). However, a mechanism for the allocation of funds for the compensation was not elaborated at that time. On May 27, 2019, the relevant Regulation was approved. Now, investors may apply to the State Committee for the Development of Tourism for receiving the subsidies. The Regulation provides for a step-by-step guidance and includes the list of required documents.

[Resolution of the Cabinet of Ministers No. 433 of May 27, 2019](#)

12. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

The Code of Administrative Liability has been amended to strengthen rights of proprietors of inventions/intellectual property. For that, relevant fines for infringement of these rights have been increased as well as the fine for a repeated commitment of the infringement within 1 year after the initial infringement has been introduced. The following rates of the fines will be now applied to managers of infringing legal entities:

- An infringement of copyright or related rights – from 5 to 10 times the minimum monthly wage (the “MMW”) with the confiscation of counterfeit copies;
- An infringement of rights of a proprietor of a trademark/service mark – from 10 to 20 times the MMW;

[Law No. ZRU – 534 of May 2, 2019](#)**13. A FREE ECONOMIC ZONE IN THE NAVOI REGION**

The entire Navoi region has become a free economic zone for the innovative, high-tech, export-oriented and import-substituting industries for the period up to January 1, 2030, which may subsequently be extended. Enterprises in the Navoi region, which will receive the status of a member of the FEZ, will be exempt from paying the land tax, the corporate tax, the tax on property for legal entities, the unified tax payment for microfirms and small enterprises. An exemption from customs duties may also be granted for a period of 3 to 10 years, depending on the amount of made investments. The procedure for determination, selection and the registration of participants is going to be developed and approved within a month. Investment agreements with participants may be terminated, whereas the status of a member of the FEZ may be suspended or revoked by court only.

Starting from June 1, 2019, individuals - founders of “enterprises with foreign investments” (a legal status granted to Uzbek legal entities in so far, as some thresholds are satisfied) – participants of the FEZ Navoi and their families will get the right to receive investment visas valid for up to 3 years with the possibility of extension without the need to leave the country.

It is of interest that it is proposed by the relevant legal act to develop a specific legal regime for the FEZ, under which it will be allowed to regulate relations between participants of the FEZ based on standards, principles and norms of English law with the use of English as a formal language. Relevant proposals for setting the regime will be elaborated by the Ministry of Justice, the Ministry for Investment and Foreign Trade, and the administration of the FEZ within 2 calendar month upon the adoption of the legal act.

[Presidential Decree No. 5719 of May 15, 2019](#)**14. DEVELOPMENT OF THE ELECTROTECHNICAL INDUSTRY**

A Presidential Resolution aimed at supporting business entities in the electrotechnical industry has been adopted. The document provides for the main directions of developing the local electrical industry, includes an action plan for developing the industry in 2019-2020, and lists promising investment projects and products recommended for localization in 2019-2021.

Starting from July 1, 2019, the state will give a priority to domestic producers when determining winners of tenders for the purchase of electrical and household appliances, if their price is no more than 20% higher than that of foreign competitors. Further, EPC projects funded by the state will envisage the procurement of electrical and household appliances from local manufacturers. It is also provided that the State Fund for Supporting the Development of Entrepreneurship will provide domestic manufacturers producing electrical and household appliances that have not been properly localized with financial support for covering the interest on loans taken for implementing projects in the industry (with certain limits being in place).

15. ECO-LABELING OF PRODUCTS

A system of promoting voluntary eco-labeling of products is going to be introduced on January 1, 2020. Manufacturers will be offered to mark their products with an environmental safety label on a voluntary basis after receiving a special certificate. Certificates are issued by an accreditation agency after reviewing application documents received from a producer and testing relevant products in an accredited laboratory. The applicant bears all the costs of the laboratory testing.

As soon as the system is introduced, it will be prohibited to use the words "eco" and "эко" (in Russian language) in the name, on the packaging, in the shipping documentation and in related advertisement of any products, if the certificate has not been obtained.

[Resolution of the Cabinet of Ministers No. 435 of May 27, 2019](#)

16. CORPORATE GOVERNANCE IN STATE-OWNED ENTERPRISES

In light of ongoing privatization reforms, [a bill](#) on improvement of corporate governance in state-owned enterprises has been prepared, in accordance with which large state-owned companies will be obliged to attract foreign top managers on a competitive basis. This initiative is going to affect large state-owned incumbents, including, for example, JSC Uzbekneftegaz, JSC Uzkiymosanoat, JSC Uzvoavtosanoat and JSC National Power Grids, in such sectors as civil aviation, electric power, oil and gas, mining and metallurgy, banking and financial services, electrical engineering, transportation, construction materials, tobacco and alcohol.



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