

THE DECREE OF MADZHILIS

on the Law of Tajikistan Republic "On Energy"

Having considered the Republic of Tajikistan Law "On Energy", Madzhlisi Milli Madzhlisi Oli of the Republic of Tajikistan decides:

To approve the Republic Tajikistan Law "On Energy".

Chairman Madzhlisi Milli

Madzhlisi Oli of the Republic of Tajikistan M. Ubaidulloev

Dushanbe, November, 10, 2000, № 123

THE LAW OF THE REPUBLIC OF TAJIKISTAN ON ENERGY

The present Law determines the main organizational and legal rules and methods for regulating the economic activity in the energy sector of the Republic of Tajikistan.

PART 1. GENERAL PROVISIONS

Article 1. The purpose of the Law

The purpose of the present Law is the legal provision of state policy in the energy sector in the Republic of Tajikistan on the basis of market, institutional and information mechanisms in order to achieve liability and development, as well as to protect the interests of energy consumers.

Article 2. Basic concepts and definitions

The following definitions are used in the present Law:

Energy sector - sphere of economics covering exploration, production, conversion, transportation, storage, transmission, distribution and utilization of energy and energy resources;

Fuel and energy complex - complex of interrelated industries, including state and non-state structures dealing with the coal, fuel, gas, heat and electric power supply and consumption systems and regional subsystems;

Branch of energy - principal part of energy sector related to one of the types energy resources and energy;

Energy enterprise - legal entity dealing with one or several types of activities in the energy sector, including subjects of natural monopoly regardless of their form of ownership;

Object of energetics - special facility assigned for the production, conversion, transportation, storage, transmission, distribution and utilization of energy and energy resources;

Activity in energy, energy services production, conversion, transportation, storage, transmission, distribution and sale of energy and energy resources;

Energy resource - energy source, which is being used currently and shall be effectively used in future. Energy resources are divided into:

a) Renewable energy resources - resources, which are produced naturally, are permanently renewed by nature (sun, natural movement of water and airflow, geothermal waters, biological mass, which can be converted into several types of energy);

b) Primary energy resources - natural resources, which directly can be used as fuel (oil, natural gas, coal) or for the production of different kinds of energy.

c) Secondary energy resources - resources produced in the form of by-product of major production;

Energy products - different types of fuel, oil products, electrical and heating energy produced from various type of energy resources;

Energy Consumers - any individual or legal entity obtaining and utilizing different type of energy resources and energy without the purpose of resale;

Energy Producers - any individual or legal entity, regardless of its form of ownership, for whom any type of energy resources and energy is considered as commercial output.

Energy-saving - efficient utilization and reduction of losses during production, transformation, transportation and consumption of energy;

Concession - agreement on transfer of a facility owned by the State with the right to carry out an energy activities to a foreign investor for temporary exploitation.

Article 3. Legislation of the Republic of Tajikistan on energy.

The legislation of the Republic of Tajikistan is based on the Constitution of the Republic of Tajikistan and consists of the present Law, other Laws enacted in accordance with the present Law, as well as international acts acknowledged by the Republic of Tajikistan.

PART II. STATE REGULATION IN THE ENERGY SECTOR

Article 4. State policy for the energy sector

The primary objectives of the state policy in the energy sector are as follows:

* Reliable and qualitative supply in order to meet the increasing demand of the Republic for energy resources and products, provision of energy security to the country;

* Protection of the environment and the population from the negative effects of activities in the energy sector;

- * Establish the necessary conditions for the gradual transition of energy to free market conditions attraction of internal and foreign investors, afford energy enterprises to be economically independent and assist their development on the basis of market competition;

- * Increase of effectiveness of operation of fuel and energy complexes by the introduction of advanced technologies, energy-saving measures, decrease of labor content per unit of output of resources of energy in GNP.

Article 5. Methods of state regulation in the sphere of energy sector

The state regulation in the energy sector shall be carried out by legal provision, licensing, taxation, implementation of investment, social and scientific-technical policy, control over the execution of legislation of the Republic of Tajikistan by the enterprises of fuel and energy complexes.

The activity in energy sector and energy services shall be carried out on the basis of authorisation (license) issued by the Ministry of Energy of the Republic of Tajikistan in accordance with the procedures set by the Government of the Republic of Tajikistan. Licenses are issued after open and transparent tender. Any activity in the energy sector which may cause a damage to the interest of the Republic of Tajikistan is not allowed.

Energy projects and programs for the construction of large energy facilities shall be expertised obligatorily by the State as per procedure established by the Government of the Republic of Tajikistan.

Article 6. Powers of the government of the Republic of Tajikistan in the energy sector

Powers of the Government of the Republic of Tajikistan in the energy sector are as follows:

- * provision of leading role of the government on the developments of energy in the Republic of Tajikistan;

- * management of fuel and energy complexes on the principles of market mechanisms ;

- * establishment of favorable conditions for the free entrepreneurship and development of all type of properties in the fuel and energy complexes under free market relations;

- * promotion of the participation of private sector in the fuel and energy complexes, support the competition in construction, reconstruction of its enterprises and branches;

- * approve the procedure of licensing for carrying out activities in the energy sector;

- * establishment of the order of state expertise of energy sector projects and programs on construction of large energy facilities;

- * concessions in the energy sector;

- * conducting the general policy on price and tariff in the fuel and energy complexes;

- * implementation of control over exploitation of restored and primary energy resources and their maintenance;

- * establishment of favorable conditions for attraction of foreign investment in the fuel and energy complexes;
- * taking emergency measures for provision to consumers of energy and energy resources in conditions of crisis and disaster impose restrictions on its utilization if necessary;
- * co-ordination of international activity in energy sector;
- * confirmation and control over the implementation of programs;
- * development of fuel and energy complexes in the Republic of Tajikistan;
- * standardization, safety and protection of consumers, protection of environment from the negative effect of the activity in the fuel and energy complexes;
- * demonopolization and restructuring of facilities in fuel and energy complexes;
- * energy saving;
- * implementation of other powers envisaged by the present Law and other Laws of the Republic of Tajikistan.

Article 7. Power of the Ministry of Energy

The Ministry of Energy is the management body responsible for the implementation of state policy in energy.

Regulation on the Ministry of Energy of the Republic of Tajikistan and its structure shall be approved by the Government of the Republic of Tajikistan.

The structure of the Ministry of Energy shall include subdivisions (departments) responsible for all energy branches, as well as auxiliary subdivisions necessary for its functioning.

The legal status of subdivisions (departments) of the Ministry of Energy of the Republic of Tajikistan shall be determined through Regulations approved by Minister of Energy of the Republic of Tajikistan.

Powers of the Ministry of Energy of the Republic of Tajikistan are as follows:

- * Implementation of state policy in the energy sector
 - * planning and forecasting of supply and demand dynamic for all type of energy and energy resources for the accounting and making further amendments in implementing programs;
 - * monitoring of the activity of energy sector enterprises with the purpose of implementing a consistent transition to market conditions;
 - * promotion to the inflow of private investment in the fuel and energy complexes and the development of local and alternative energy resources, including regulation of management, ownership of secondary energy resources and energy products at the level of final consumer;

* promotion to the development of competition, provision of equal opportunities and conditions for the activity of energy sector enterprises of different forms of ownership;

* issuance of the license for the implementation of activity in the fuel and energy complexes and control over the maintenance of its conditions;

* standardization, safety and protection of consumers, protection of environment from the negative effect of the activity in the fuel and energy complex;

* energy saving;

* implementation of other powers envisaged by the Laws of the Republic of Tajikistan.

Article 8. Interagency consultative committee on energy

With the purpose of consideration of suggestions related to the policy in energy sector, increase of effectiveness and improvement of management methods in fuel and energy complexes the Government of the Republic of Tajikistan shall establish Interagency Consultative Committee on Energy under the Ministry of Energy of the Republic of Tajikistan.

The Interagency Consultative Committee on Energy shall include the representatives of local executive bodies, other ministries, departments, scientific organizations, energy sector enterprises and consumers at the discretion of the Government of the Republic of Tajikistan.

Article 9. Powers of local state authorities in fuel and energy complexes

The powers of local state authorities in fuel and energy complexes shall be determined by the legislation of the Republic of Tajikistan.

PART III. PARTICULARITY OF ACTIVITY IN ENERGY SECTOR

Article 10. Management of energy sector enterprises

The enterprises of fuel and energy complexes shall be independent in the management of administrative and production activity.

All types of activity of enterprises of fuel and energy complexes in the territory of the Republic of Tajikistan shall be carried out as per legislation of the Republic of Tajikistan on energy.

Article 11. The protection of property right of energy enterprises

Energy enterprises in the territory of the Republic of Tajikistan shall be established and operate on the basis of variety forms of property (state, private, shareholding, mixed, joint).

Owners of the energy enterprises are equal before the law and have the same protection by the Constitution and Laws of the Republic of Tajikistan.

Article 12. The protection of interests of energy consumers

The protection of interests of energy consumers shall be carried out as per laws and other standard and legal acts of the Republic of Tajikistan.

Article 13. The issues of financing in energy sector

The financing in the energy sector shall be carried out at the expense of state, private and foreign resources of investment.

Article 14. Foreign investment in energy sector

The attraction of foreign investment in the energy sector shall be carried out by the legislation of the Republic of Tajikistan.

For the foreign investment in the energy sector the legislation of the Republic of Tajikistan shall establish tax or other types of benefits.

Article 15. Pricing in the energy sector

The prices and tariffs for the energy sector products and services shall be set out freely (agreed price).

Article 16. Concessions in the energy sector

Electrical and thermal stations, transmission and distribution networks and facilities providing services to them, oil and gas pipelines, enterprises of gas households providing by natural and liquefied gas, fuel and gas facilities, prospection for fuel, gas and coal shall be transferred to the concession of the Republic of Tajikistan as per legislation of the Republic of Tajikistan.

The concession to foreign investors for the exploration, production and exploitation of energy resources and conducting of other activities in fuel and energy complexes shall be granted as per concession agreements.

Article 17. Utilization of land in energy sector

The utilization of land in energy sector shall be carried out as per Land Code and other Laws of the Republic of Tajikistan.

Article 18. State enterprises in energy sector

State enterprises in the energy sector shall carry out their activity on commercial basis as independent administrative units by making agreements with the Ministry of Energy of the Republic of Tajikistan. Such agreements in respect of state enterprises of fuel and energy complexes envisage:

- * its requiring corporative and commercial status;
- * schedule of the activity on its commercialization;
- * the level of its financial and management condition;
- * standards and criteria of the activity and accountability of its management;

* principles and the procedure of working out the structure of its accountability, including working out separate accountability for its different functional subdivisions, determination the cost of property and write-off for amortization.

* annual financial and manufacturing indicators.

PART IV. STATE ENERGY CONTROL IN ENERGY SECTOR AND THE RESPONSIBILITY FOR THE INFRINGEMENT OF LEGISLATION IN THE SPHERE OF ENERGY

Article 19. State energy control.

For the maintenance to the established standards, norms and rules in energy by all legal entities and individuals during production, transportation, operation, transformation, storage, consumption of energy resources and products, exploitation of energy facilities and installation of the state energy control shall be organized within the procedure determined by the legislation of the Republic of Tajikistan.

State energy control shall be carried out by state specialized bodies.

Article 20. Responsibility for the infringement of legislation in the energy sector

For the infringement of legislation in the energy sector persons violating the legislation shall bear responsibility as per determined order.

The President of the

Republic of Tajikistan E. Rakhmonov

Dushanbe city, November 29, 2000, №33