

Changes to Construction Law

The Act of 16 December 2016 amending certain acts with a view to improving the legal environment for entrepreneurs, representing part of the so-called package of facilitation measures for entrepreneurs designated as "100 changes for companies", was submitted to the President for signature on 16 December 2016. According to the explanatory memorandum to the Act, the amended Act is aimed to improve the legal environment for conducting business operations in Poland through reduction of selected administrative burdens, clarification of issues which give rise to difficulties of interpretation, introduction of measures promoting entrepreneurship, raising labour efficiency, streamlining investment processes and less burdensome inspections of business activities.

Measures comprising the package include a wide range of legal acts including the Act of 7 July 1994 Construction Law (Journal of Laws of 2016, item 290, as amended, hereinafter referred to as the Construction Law). Part of the changes are editorial in nature and they will not have a major influence on companies' activities in the area of regulations pertaining to the building law, but some of them will indeed facilitate investment processes.

Key changes concern a number of issues, including in particular exemption from the obligation to secure a building permit, the obligation to notify the construction, major departure from the approved building permit design and temporary building structures.

As of 1 January 2017, building permits will not be required for the construction of silos for bulk materials with cubic capacity of up to 30 m³ and height of up to 7 m or installation of air-conditioning systems inside of buildings already in use. The issue of air-conditioning systems has recently raised serious concerns, hence the legislator decided to have it regulated and, consequently, exempt the systems from the obligation to secure a building permit or file a relevant notification. Additionally, investors will not be required to obtain a construction permit to perform construction work involving reconstruction of buildings other than the ones referred to in Art. 29.1 of the Construction Law, excluding building envelope and structural parts thereof, and, also, with the exception of buildings of which the building permit designs require arrangements to be made

in terms of fire protection and reconstruction of building envelope and structural parts of single-family residential buildings provided that reconstruction does not result in increasing the impact zone of the buildings. The above changes should be perceived as positive because the previous regulations were too rigorous.

Another major change concerns the construction notification procedure. The key new change, aimed to streamline and accelerate the pace of investment processes involving projects based on notifications is, beyond any doubt, the shortening of the time limit for entering a statement of opposition against the construction notification. To date, the competent authority was required to file the statement of opposition within 30 days, while now the time limit has been shortened to 21 days after which construction work can commence. Furthermore, a provision has been added allowing the architectural and construction administration authority to issue *ex officio* a statement to the effect that there are no grounds to enter a statement of opposition before the expiry of the set time limit.

What should be noted here is an apparently superficial change replacing the term "competent authority" with the "architectural and construction administration authority". The modification is aimed to make it easier for companies to determine which authority is competent in a relevant matter.

Furthermore, the legislator introduced a change concerning major departure from the approved construction permit design or other terms and conditions of a construc-

tion permit. Pursuant to the revised regulations, the departure will not be a change in a non-linear structure's height, width or length provided that the change is up to 2% of the structure's height, width or length as stated in the building permit design and that it does not increase the structure's impact zone, it is not a change referred to in Art. 36a.5.3-6 of the Construction Law, except for departure from the designed fire protection terms if the departure has been agreed upon with an expert on fireproofing and it is without prejudice to the technical and construction regulations. Importantly, all the conditions referred to above must be fulfilled jointly.

Changes have also been made to regulations applicable to the construction of temporary building structures. Firstly, the time limit for dismantling or relocating temporary structures has been extended from 120 days to 180 days. Secondly, investors can now obtain a decision permitting the construction of a temporary building structure. In the event of submitting such an application, the investor will be allowed to withhold the dismantling or relocation of the structure until the end of procedure for obtaining a building permit. As a result, the structure can still be used. Under the current legal regime, investors are not allowed to continue to use the structure because it must be unconditionally dismantled or relocated after the set time limit.

The presented changes are due to take effect as of 1 January 2017.

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