

FEDERAL LAW
NO. 19-FZ OF JANUARY 7, 1999
ON THE INTRODUCTION OF AMENDMENTS AND ADDENDA INTO
THE FEDERAL LAW ON PRODUCTION SHARING AGREEMENTS

Approved
by the State Duma

on December 9, 1998

Approved
by the Federation Council

on December 23, 1998

Article 1. The following amendments and addenda shall be introduced into the Federal Law on Production Sharing Agreements (Collected Acts of the Russian Federation No. 1, Item 18, 1996.):

1. In Article 2:

Item 2 shall have the following wording:

"2. Terms and conditions for the use of the subsoil provided for by the Agreement shall be consistent with the legislation of the Russian Federation.

The right to use the subsoil may be restricted, suspended or terminated under the terms of an agreement concluded in accordance with the legislation of the Russian Federation.";

In Item 3:

Paragraph one shall be supplemented with the words, "except for the cases established by Item 5 of the present Article" after the words, "shall be established by federal laws.";

Paragraph two shall have the following wording:

"The said draft federal laws as well as draft federal laws on the introduction of amendments and addenda to the said federal laws shall be submitted to the Russian Federation State Duma of the Federal Assembly by subjects with the right of the legislative initiative and they shall be examined by the State Duma of the Russian Federation Federal Assembly, provided there are conclusions made by the Government of the Russian Federation and decisions of the legislative (representative) bodies of the subjects of the Russian Federation on which territories the subsoil plots in question are located.";

supplement with the following paragraphs:

"Lists of the subsoil plots shall include those subsoil plots for which the Government of the Russian Federation has drafted its feasibility study as regards the possible inclusion of such subsoil plots into the above lists.

As regards subsoil plots located on the territory of traditional habitation and economic activity of indigenous exiguous ethnic communities a corresponding decision shall be taken by a legislative (representative) body of the subject of the Russian Federation on which territory the subsoil plot in question is located which is to be taken with due consideration of interests of the indigenous exiguous ethnic communities and also another one taken by a local selfgovernment body.

It is permitted to allocate under production sharing terms not more than 30 per cent of mineral reserves, prospected and registered in the State register.";

supplement with new Items 4 and 5 as follows:

"4. The following shall constitute the grounds for including into the lists those subsoil plots

for which may be granted the right of use under the production sharing conditions:

when due to existing objective conditions, deposits of mineral resources serving as the basis for urban development can be exploited by a subsoil user and the State only at a loss, if the exploitation of such deposits can significantly increase the amount of extracted mineral resources, while terminating the exploitation can result in negative social consequences;

if no financial and technical means are available to develop new large-scale mineral deposits, which development can sustain such overall national level of extraction of the mineral resources as required for the social development and economic security of the Russian Federation, as well as can ensure the construction of industrial infrastructure facilities (including the facilities involved in the transportation of the minerals), first of all on the continental shelf of the Russian Federation, in remote and poorly developed areas;

the need to attract special capital-intensive and highly effective technologies to develop large scale and difficult-to-extract mineral deposits which are located in complicated mining-and-geological conditions and which are residual in relation to deposits being developed, and also the need to prevent potential losses of fuel and mineral raw materials in the subsoil;

the need to attract additional financial and technical resources to ensure the environmental safety and protection of the subsoil in the case of development of large mineral deposits located in wildlife territories under special protection;

the need to provide local supply of fuel resources for the regions, to create new jobs and favorable social and economic conditions in subsidized regions and areas with low employment rates;

existing commitments of the Russian Federation to conduct talks on the terms of Agreements and also available results of tenders or auctions to allocate subsoil sections for the use under terms of production sharing.

5. In certain cases Lists of the subsoil plots which may be granted the right of use under production sharing in keeping with the present Federal Law will be established on the basis of a decision of the Government of the Russian Federation and a decision of the executive government body of a corresponding subject of the Russian Federation without the need for approval by federal laws, provided the above subsoil plots contain the following mineral deposits:

oil deposits with extractable reserves of up to 25 million tons;

gas deposits with reserves of up to 250 thousand million cubic meters;

primary deposits of gold with reserves of up to 50 tons;

placer deposits of gold with reserves of up to 1 ton;

deposits of other minerals which are not deemed as strategic type minerals and have no currency value;

Item 4 shall be named as Item 6;

Item 5 shall be named as Item 7 and shall have the following wording:

"7. Agreements concluded prior to the entry into force of the present Federal Law shall be implemented in accordance with their terms and conditions. In so doing provisions of the present Federal Law will be applicable to the above Agreements in as far as its application is not at variance with terms and conditions of such Agreements and does not restrict the rights acquired and enjoyed by investors under such Agreements."

2. In Article 6:

Item 1 after Paragraph one shall be supplemented with the following paragraphs:

"Terms and conditions of tenders or auctions shall provide for the participation of Russian

legal entities in the realization of the Agreement in the proportion laid down by the Government of the Russian Federation and corresponding bodies of the executive power of the subjects of the Russian Federation.

Terms and conditions of tenders, auctions or of an allocation of subsoil sections on noncompetitive basis shall contain a provision for appropriate compensations for the violation of traditional way of use of nature as regards those subsoil plots located on the territory of traditional habitation and economic activity of indigenous exiguous ethnic communities.

The initial terms and conditions of tenders or auctions shall be drafted on the basis of technical and economic estimates performed at the instruction of State bodies in charge for holding such tenders or auctions.";

Paragraph two of Item 1 shall have the following wording:

"Agreements shall be concluded on the basis of provisions established by the legislation of the Russian Federation. Agreements involving the use of plots of subsoil located on the continental shelf of the Russian Federation and (or) within the exclusive economic zone of the Russian Federation as well as Agreements concluded in accordance with Paragraph two of Item 2, Article 6 of the present Federal Law are to be approved by special federal laws.";

Item 3 shall have the following wording:

"3. Terms and conditions for the use of the subsoil and preparation of a draft agreement for each object of the subsoil use shall be drafted by a commission to be set up by the Government of the Russian Federation by agreement with the executive government body of a correspondent subject of the Russian Federation.

The said commission shall include representatives of the federal executive government bodies, including representatives of the federal subsoil fund management body and (or) its local branch, representatives of the executive government body of an appropriate subject of the Russian Federation. If the allocated subsoil plots are situated on the territory of traditional habitation and economic activity of indigenous exiguous ethnic communities the above commission shall also include members of the federal body in charge for social and economic development of Northern Territories of the Russian Federation as well as representatives of corresponding bodies of local self-government. If need be, production and scientific research organizations as well as experts and consultants shall be invited to work on the said commission.

Activities involved in the drafting of terms and conditions of tenders or auctions, of technical and economic feasibility studies, and of the Agreement shall be partially financed at the expense of funds generated through the implementation of the Agreement."

3. In Article 7:

Paragraph two of Item 2 shall have the following wording:

"to grant Russian legal entities the priority right to take part in the conduct of the Agreement Operations as contractors, suppliers, carriers or in any other capacity under agreements (contracts) with Investors;";

Item 2 after Paragraph two shall be supplemented with the following paragraphs:

"to employ citizens of the Russian Federation, their portion being no less than 80 per cent of all employed personnel, to employ foreign workers and specialists only at initial stages of the Agreement Operations, or if there are no Russian workers and specialists of corresponding qualifications;

to allocate no less than 70 per cent of the cost volume of orders to manufacture machinery, equipment and materials necessary for geological study, extraction and primary processing of mineral resources among Russian legal entities or foreign legal entities which perform the

activities in question and are registered as tax payers on the territory of the Russian Federation;

to purchase on competitive basis new equipment and use advanced technologies to perform Agreement Operations. In so doing the Russian goods (machinery, equipment and materials) shall be competitive to similar foreign goods as regards their reliability, safety, quality and delivery times.";

Item 3 shall have the following wording:

"3. If works under an agreement are performed at sites located on territories of traditional habitation and economic activity of indigenous exiguous ethnic communities the Investor shall be obliged to implement measures prescribed by the legislation of the Russian Federation to protect the territories of traditional habitation and economic activity of indigenous exiguous ethnic communities and also ensure that relevant compensations are paid in cases and in the manner established by the Government of the Russian Federation.";

Item 4 shall have the following wording:

"4. Organization of Agreement Operations, including accounting and reporting pursuant to Article 14 of the present Federal Law shall be performed by the investor or by the operator of the Agreement by the Investor's instruction. Acting as such operator whose scope of activities is to be limited to the management of the said operations may be affiliates or legal entities established by the investor in the Russian Federation for these purposes, or legal entities attracted by the investor for these purposes, as well as foreign legal entities operating on the territory of the Russian Federation. In so doing, the investor shall be liable with its assets to the State for actions of the operator of the Agreement as if they were the investor's own actions.";

Item 7 shall have the following wording:

"7. In order to coordinate activities related to Agreement Operations the parties shall be obliged to make provisions to set up a management committee with equal representation of each party. Its membership, rights and obligations of the management committee as well as its working procedure shall be set forth in the Agreement. The established management committee shall ensure for equal participation for the representatives of the federal bodies of executive power on behalf of the State and representatives of executive government bodies of a corresponding subject of the Russian Federation on which territory is situated a subsoil plot in question.".

4. Item 6 of Article 13 shall have the following wording:

"6. The Investor shall make obligatory payments for social and medical insurance of its employees - citizens of the Russian Federation as well as payments to the Russian Federation Employment Fund and to the Pension Fund of the Russian Federation in accordance with the legislation of the Russian Federation.".

5. Supplement Article 19 with the following Item 3:

"3. The Government of the Russian Federation shall submit to the State Duma of the Federal Assembly of the Russian Federation simultaneously with draft federal law on the federal budget for a corresponding year also its report on the results of activities for the implementation of the production sharing agreements.

The above report shall be forwarded to the Audit Chamber of the Russian Federation and is to be considered by the State Duma of the Federal Assembly of the Russian Federation only after the Audit Chamber of the Russian Federation has submitted its conclusion.".

Article 2. The present Federal Law shall enter into force upon its official publication.

President of the Russian Federation

B. Yeltsin

Moscow, the Kremlin