

THE LAW OF THE KYRGYZ REPUBLIC

Law on Energy

This Law determines the main principles of the organization and regulation of activities in the Fuel-Energy Sector.

The provisions of the present law apply to all enterprises of the Fuel-Energy Sector regardless of the form of ownership.

Article 1. Fuel-Energy Sector

The Fuel-Energy Sector in the Kyrgyz Republic is composed of Energy sub-Sectors. Each sub-Energy Sector and Energy Activity performed within Energy sub-Sectors shall be governed by specific provisions of this Law and by other legislative and normative acts of the Kyrgyz Republic.

Article 2. Objectives of the Present Law

The objectives of this Law are to increase economic efficiency and reliability of the functioning of the Fuel-Energy Sector and to protect the interests of consumers and producers.

Article 3. Definitions

As used in this Law, the meaning of the terms listed below shall be interpreted as follows:

Renewable Energy Resources - naturally formed resources, which are continuously renewed by nature and can be converted into energy, including geothermal, solar, water and wind energy;

Secondary Energy Resources - resources, extracted through processing of primary energy resources, with the loss of a portion of the primary energy during the processing;

Energy Activities - production, generation, transportation, transmission, distribution, storage, refining, conversion, transformation, selling or trading of energy resources and products;

Energy sub-Sector - a component of the Fuel-Energy Sector (coal, oil and gas, electricity and others);

Primary Energy Resources - resources existing in their natural state, that can be used as fuel (oil, natural gas, oil shale, coal, peat) and for extraction of other kinds of energy (nuclear fuel, water, solar, wind energy and energy of geothermal sources);

Enterprises of the Fuel-Energy Sector- those enterprises engaging in one or more Energy Activities, including natural monopolies, regardless of the form of ownership;

Performance Agreement - an agreement between the State Steering Entity for Energy Sector under the Government of the Kyrgyz Republic and a License Holder specifying expected outcomes of efforts to improve the efficiency of performance of the License Holder;

Fuel-Energy Sector - the aggregate of interrelated branches of the economy, including governmental and non-governmental structures, involved in systems that supply or consume coal, oil, natural gas, electricity and thermal energy, including territorial sub-systems;

Energy Products - different kinds of fuel, oil products, electricity and thermal energy produced from any energy resource;

Energy Savings - rational utilization of the energy and reduction of the losses in the production, conversion, transportation and consumption of energy;

Energy Services - generation, transmission, distribution, storage, transportation or sale of energy resources.

Article 4. State Ownership of Primary Energy Resources

All Primary Energy Resources located in the Kyrgyz Republic are the exclusive property of the State, and, in accord with legislation of the Kyrgyz Republic, may only be exploited on the basis of a License.

Article 5. Forms of Ownership and Operations of Enterprises of the Fuel-Energy Sector

Enterprises of the Fuel-Energy Sector may be of any organizational and legal form of any type of ownership (state, communal and private).

The program of denationalization and privatization of the Fuel-Energy Sector shall be developed by the Government of the Kyrgyz Republic and approved by both Assemblies of the Jogorku Kenesh of the Kyrgyz Republic.

Article 6. Authorities of the Government in the Fuel-Energy Sector

The Government of the Kyrgyz Republic defines the energy policy and conducts control over policy implementation in accordance with the provisions of this Law and subsequent legislation and does not interfere directly into operational activities of Enterprises of the Fuel-Energy Sector.

The functions of the Kyrgyz Republic's Government in the Fuel-Energy Sector include:

Granting and transferring property rights and rights for the use of water, mineral and other energy resources;

Carrying out control over exploitation of energy resources and their maintenance;

Creating conditions necessary for attracting investments into the Fuel-Energy Sector;

Elaborating and implementing the National Energy Program;

Elaborating programs to protect the environment from the negative impacts caused by activities in the sphere of the Fuel and Energy industry;

Elaborating and implementing of demonopolization and privatization programs for the Energy sub-Sectors;

Elaborating and implementing energy savings programs;

Conducting general policy on prices in the Fuel-Energy Sector.

The Government of the Kyrgyz Republic may delegate some specific functions to other government entities.

Article 7. Powers of Local State Authorities in the Fuel-Energy Sector

Interrelations between the Local State Authorities and Enterprises of the Fuel-Energy Sector shall be governed by the legislation and other normative acts of the Kyrgyz Republic.

Article 8. The State Energy Agency under the Government of the Kyrgyz Republic

The State Energy Agency under the Government of the Kyrgyz Republic is a permanently acting body which functions independently from all Energy Enterprises and does not directly interfere in their operational and economic activities.

The State Energy Agency under the Government of the Kyrgyz Republic conducts its activities in accord with the following principles:

1. In order to avoid negative consequences of the monopolistic activities in the Fuel-Energy Sector, the State Energy Agency under the Government of the Kyrgyz Republic shall use the Performance Agreements.

2. For activities where competition is feasible, the State Energy Agency under the Government of the Kyrgyz Republic shall:

(a) encourage the development of energy markets and the emergence of competing producers; and

(b) create favourable conditions for competition.

The Provisions of the State Energy Agency under the Government of the Kyrgyz Republic shall be approved by the Decree of the Government of the Kyrgyz Republic.

Article 9. Functions of the State Energy Agency under the Government of the Kyrgyz Republic

The present Law hereby empowers the State Energy Agency under the Government of the Kyrgyz Republic with authorities to:

1. Issue licenses for generation, transmission, distribution and sale of electricity, thermal energy and natural gas in accord with legislation of the Kyrgyz Republic;

2. Establish pricing and tariff mechanisms that are economically justified and socially affordable;

3. Pursue the policy of demonopolization of producers and encourage the development of competition, providing equal opportunities and conditions to all competitors for access to transmission lines and gas delivery systems;

4. Monitor the effectiveness of measures intended to foster competition and notify the competent government entities with respect to violation of the anti-monopoly laws of the Kyrgyz Republic;

5. Enforce standards and normative documents on service delivery to the consumers of energy resources in accord with legislation of the Kyrgyz Republic;

6. Encourage the efficient use of electricity, thermal energy, natural gas, coal, oil and oil products and promote Energy Savings;
7. Encourage the creation of favourable conditions for the development of Renewable Energy Sources;
8. Coordinate standards in the energy sector;
9. Establish mechanisms for resolving consumer complaints and settling disputes between consumers and enterprises, providing energy services, as well as among enterprises;
10. Adopt, issue and monitor the proper implementation of resolutions, rules, regulations, guidelines, instructions, and other acts of a normative nature necessary to carry out its activities;
11. In conjunction with other state bodies coordinate the program of technical assistance and attract investments to the Fuel-Energy Sector;
12. Order and enforce scientific and technical programs that allow improved efficiency of the Fuel-Energy Sector;
13. Set tariffs on electricity, thermal energy and natural gas.

Article 10. Composition of the State Energy Agency under the Government of the Kyrgyz Republic

The State Energy Agency under the Government of the Kyrgyz Republic consists of:

1. Three Members of an Executive Board appointed by the Prime Minister of the Kyrgyz Republic and confirmed by the President of the Kyrgyz Republic;
2. Qualified professional staff necessary to enable the State Energy Agency to carry out the responsibilities, assigned by this Law.

The term of office for the Members of the Executive Board is six years, except the initial terms for the Members of the first composition will be defined differently: two years for the first Member of the Board, four years for the second Member and six years for the third Member of the Board of the first composition. Members of the Executive Board are eligible for a second term, but the total length of service should not exceed twelve consecutive years. Every two years, upon consultation with the Prime Minister, the President will appoint one Executive Member to serve as the Director of the State Energy Agency under the Government of the Kyrgyz Republic. Each Executive Member has equal rights while making decisions and voting.

Article 11. Funding the State Energy Agency under the Government of the Kyrgyz Republic

Expenses to finance the State Energy Agency under the Government of the Kyrgyz Republic shall be incorporated into the Republican Budget.

Article 12. Access to Information

In order to carry out its functions and implement its tasks the State Energy Agency under the Government of the Kyrgyz Republic, within the scope of its authority, possesses free access to all documents of Enterprises of the Fuel-Energy Sector.

Article 13. National Energy Program

A National Energy Program (NEP) shall be developed by the Government of the Kyrgyz Republic, approved by both Assemblies of the Jogorku Kenesh of the Kyrgyz Republic and confirmed by the President of the Kyrgyz Republic.

The purpose of the NEP is to outline the main trends of development for each of the Energy sub-Sectors, including energy conservation and efficient utilization of energy resources, increase of efficiency of the fuel and energy supply systems, energy preservation, utilization of ecologically clean fuels and protection of the environment, implementation of the structural transformations, resolution of investment, price, tax, and other issues in the energy and fuel industry and scientific research works.

Article 14. Environmental Protection

All types of anticipated Energy Activities shall be preliminary considered and evaluated by the competent State Authorities in terms of the impact on the environment and shall be implemented only after their positive conclusion.

Article 15. Use of Land and Property

The License Holder has rights to carry out production and economic activities on the allotment received using fixed assets which are the property of State, Territorial Units, or other property, in accord with legislation of the Kyrgyz Republic.

Article 16. Responsibilities

The License Holder shall be responsible for the damages to the owners or users of the fixed assets, to other consumers of energy resources, and to the environment and ecology, caused during the implementation of Energy Activities, in accord with the Legislation of the Kyrgyz Republic.

The Government of the Kyrgyz Republic shall be responsible for making compensation payments for fuels to low income people, and it shall be also responsible for those decisions of the State Energy Agency under the Government of the Kyrgyz Republic that worsen the social-economic situation of the Republic.

Article 17. General Principles

The Government of the Kyrgyz Republic shall encourage and create stable and favorable conditions for investments in the Fuel-Energy Sector.

Article 18. Attracting Investments in Fuel-Energy Sector Activities

In order to encourage the progress and development of energy generation, transmission/transportation, distribution and supply of Energy Products, the present Law recognizes the role to be played by private legal entities or individuals in the given sub-Sectors and ensures to the maximum possible extent that they are accorded favourable treatment commensurate with their role and contribution.

Article 19. Insurance

Within the framework of investments in the Fuel-Energy Sector, investors are allowed to place with local or foreign insurance companies any insurance required for their investments. The Government of the Kyrgyz Republic shall not enact any restrictions, interfere or influence the terms and other conditions of such insurance.

Article 20. Effectiveness of the Law

This Law shall enter into force from the date of signing.

President of the Kyrgyz Republic A.Akaev

Adopted by the Legislative Assembly
of the Jogorku Kenesh of the Kyrgyz Republic October 17, 1996