

Law of the Republic of Belarus to introduce amendments and additions to certain laws of the Republic of Belarus with regard to public participation in making environmentally significant decisions and public access to environmental information

Article 1. The following amendments and additions are to be made to the Law of the Republic of Belarus of 26 November 1992 on Environmental Protection as amended by the Law of the Republic of Belarus of 17 July 2002 (*Ведамасці Вярхоўнага Савета Рэспублікі Беларусь, 1993 г., N 1, ст. 1; National Register of Legislation of the Republic of Belarus, 2002, No. 85, 2/875; 2006, No. 6, 2/1177; No. 107, 2/1235; 2007, No. 147, 2/1335; 2008, No. 1, 2/1395; No. 275, 2/1541; 2009, No. 161, 2/1584; 2010, No. 120, 2/1679; 2012, No. 1, 2/1878; No. 5, 2/1883*):

1. In Article 1:

The following indent is to be added to the Article after the fourth indent:

‘environmental impact means any direct or indirect impact on the environment from business and other activities giving rise to changes in the environment’;

indents 5 to 47 are to be regarded as indents 6 to 48 respectively;

the following indent is to be added to the Article after the forty-fourth indent:

‘environmentally significant decisions means decisions initiated and (or) made by public authorities, other state organisations, legal entities, organisations which are not legal entities, authorised officials, sole traders in relation to: planned business and other activities which may have an environmental impact, draft conceptual frameworks, state, regional and sectoral programmes, spatial planning and development programmes, draft legislation and draft official decisions, the application of which may have an environmental impact;’;

indents 46 to 48 are to be regarded as indents 47 to 49 respectively.

2. In Article 9:

the following indent is to be added to the Article after the twenty-seventh indent:

‘specify the procedure for public discussions of environmentally significant decisions, the types of environmentally significant decisions and the organisers of discussions of environmentally significant decisions;’;

the twenty-eighth indent is to be regarded as the twenty-ninth indent.

3. In Article 10:

In the second paragraph:

the following indent is to be added to the Article after the thirty-fourth indent:

‘organise public discussions of drafts of environmentally significant decisions concerning declaration, modification and termination of the operation of natural monuments of national importance;’;

indents 35 to 39 are to be regarded as indents 36 to 40 respectively.

4. In Article 11:

in the second paragraph:

the following indent is to be added to the Article after the fourteenth indent:

‘organise public discussions of drafts of environmentally significant decisions, as defined by the Council of Ministers of the Republic of Belarus, in the territory

concerned;’;

the fifteenth indent is to be regarded as the sixteenth indent.

5. Article 12 is to be amended as follows:

‘Article 12. The right to a healthy environment

Every citizen has an inalienable right to a healthy environment.

The citizen has the right to a healthy environment from birth; this right is subject to protection as a personal non-property right, unconnected with property rights, under a procedure laid down by the legislation of the Republic of Belarus.

The right to a healthy environment is secured by:

planning, setting environmental protection standards and establishing environmental protection requirements;

monitoring environmental protection and the efficient use of natural resources;

measures for the prevention of adverse environmental impact and for environmental rehabilitation, emergency/disaster prevention and post-crisis recovery;

provision and dissemination of complete, reliable and timely environmental information;

public participation in making environmentally significant decisions;

activities undertaken by public environmental associations;

appeal against decisions and acts (omissions) of public authorities, state organisations and authorised officials;

judicial remedy, self-defence and receipt of skilled legal assistance;

an established procedure to provide compensation for harm caused to a citizen’s life, health, property as a result of adverse environmental impact;

an established procedure to provide recompense for non-material harm caused to a citizen by the violation of his right to a healthy environment;

judicial resolution of disputes arising in connection with implementation of citizens’ rights in the field of environmental protection;

adoption of other measures provided for by this Law and by other legislation of the Republic of Belarus.’.

6. Article 13 is to be amended as follows:

‘Article 13. Citizens’ rights and responsibilities in the field of environmental protection

In the aim of implementing and protecting the right to a healthy environment, citizens have the right to:

receive and disseminate environmental information obtained under an established procedure;

create public associations to carry on activities in the field of environmental protection and public foundations for the protection of nature;

assist public authorities in tackling environmental protection issues;

address communications, suggestions and complaints about environmental protection issues, adverse environmental impact to public authorities, other organisations, and receive timely, reasonable replies;

participate in making environmentally significant decisions;

create citizens’ pressure groups for implementation of the right to participate in

making environmentally significant decisions;

bring lawsuits seeking protection and restoration of the right to a healthy environment, inter alia seeking compensation for harm caused to their life, health, property as a result of adverse environmental impact;

bring lawsuits seeking recompense for non-material harm caused by violation of the right to a healthy environment;

bring lawsuits seeking the full or partial suspension or termination of business and other activities which have an adverse impact on the environment, if such activities result in contravention of environmental protection requirements, cause environmental damage or create a danger of causing environmental damage in the future.

Citizens have a responsibility to observe the environmental protection legislation of the Republic of Belarus.

Other rights and responsibilities of citizens in the field of environmental protection may be determined by legislation of the Republic of Belarus.’.

7. Article 14 is to be amended as follows:

‘Article 14. Guaranteeing the right of citizens and public environmental associations to environmental information

The right to receive and disseminate environmental information is guaranteed in accordance with Articles 74 to 74-7 of this Law.’.

8. Article 14-1 is to be added to the Law as follows:

‘Article 14-1. Guaranteeing the right of citizens and public environmental associations to participate in making environmentally significant decisions

The right of individual citizens, citizens’ pressure groups and public environmental associations (‘the public’) to participate in making environmentally significant decisions is guaranteed through public discussions of drafts of environmentally significant decisions, through public environmental review.

The Council of Ministers of the Republic of Belarus is to specify the procedure for public discussions of environmentally significant decisions, the types of environmentally significant decisions and the organisers of discussions of environmentally significant decisions.

Public participation in making environmentally significant decisions through public environmental review is to be conducted in accordance with Article 61 of this Law.

Other forms of public participation in making environmentally significant decisions may be provided for by the legislation of the Republic of Belarus.

Public participation in making environmentally significant decisions through public discussions of environmentally significant decisions is to be organised by public authorities, other state organisations, legal entities, sole traders, organisations that are not legal entities, pursuant to fulfilling the obligations incumbent on them under the legislation of the Republic of Belarus (‘the organiser’).

The organiser is to inform the public of any proposed environmentally significant

decision, to ensure access to the draft of an environmentally significant decision, to acquaint the public with the results of public discussions of environmentally significant decisions and to notify the public of any environmentally significant decision that has been made and of the rationale for it.

Public notification of any environmentally significant decision made is to comply with the legislation of the Republic of Belarus on information, informatisation and information protection, on administrative procedures, on architectural, urban planning and construction activity, on the legislation of the Republic of Belarus, on international agreements entered into by the Republic of Belarus and with other legislation.

Public participation in making environmentally significant decisions relating to draft legislation and draft official decisions, the application of which may have an environmental impact, is to comply with the legislation of the Republic of Belarus on the laws of the Republic of Belarus.

Public authorities have the right, within the bounds of their competence, to limit public participation in making environmentally significant decisions that relate to military and defence installations or to proposed business and other activities continuing for less than two years for the purposes of research, development and testing of new methods or techniques, equipment, materials and technologies, in compliance with the legislation of the Republic of Belarus.

Public participation in making environmentally significant decisions relating to proposed activities which may have a transboundary environmental impact is to comply with the legislation, inter alia with international environmental protection agreements entered into by the Republic of Belarus.

9. In Article 15:

in the first paragraph:

the sixth indent is to be amended as follows:

‘participate in making environmentally significant decisions;’;

the thirteenth indent is to be amended as follows:

‘bring lawsuits seeking protection and restoration of the right to a healthy environment for its members (participants), inter alia seeking compensation for harm caused to their life, health, property as a result of adverse environmental impact;’;

the following indent is to be added to the Article after the thirteenth indent:

‘bring lawsuits seeking the full or partial suspension or termination of the business and other activities of legal entities and sole traders which have an adverse impact on the environment, if such activities result in contravention of environmental protection requirements, cause environmental damage or create a danger of causing environmental damage in the future;’;

the fourteenth indent is to be regarded as the fifteenth indent;

in the fourth paragraph:

the words ‘environmental protection requirements’ are to be replaced by the words ‘environmental protection legislation of the Republic of Belarus’.

Article 2. The following amendment is to be made to the Law of the Republic of Belarus of 9 November 2009 on State Environmental Review [‘expertiza’]

(National Register of Legislation of the Republic of Belarus, 2009, No. 276, 2/1606):

The second indent in Article 1 is to be deleted;
indents 3 to 12 are to be regarded as indents 2 to 11 respectively.

Article 3. The following amendments and additions are to be made to the Law of the Republic of Belarus of 10 November 2008 on Information, Informatisation and Information Protection (National Register of Legislation of the Republic of Belarus, 2008, No. 279, 2/1552):

1. In Article 2:
in the second paragraph:
' , environmental' is to be added after the word 'legal'.

2. In Article 6:
in the third paragraph:
the words 'the state of the environment' are to be replaced by the words 'and also environmental information'.

Article 4. The following additions and amendments are to be made to the Administrative Offences Code of the Republic of Belarus of 21 April 2003 (National Register of Legislation of the Republic of Belarus, 2003, No. 63, 2/946; No. 87, 2/980; 2004, No. 107, 2/1048; 2005, No. 74, 2/1112; No. 120, 2/1128; 2006, No. 7, 2/1188; No. 78, 2/1207, 2/1212; No. 106, 2/1234; No. 111, 2/1242; No. 112, 2/1245; 2007, No. 4, 2/1296; No. 119, 2/1318; No. 120, 2/1325; No. 132, 2/1330; No. 146, 2/1332; No. 160, 2/1343; No. 175, 2/1370, 2/1371; No. 263, 2/1376; No. 305, 2/1397, 2/1401; 2008, No. 6, 2/1406; No. 14, 2/1417, 2/1418; 2010, No. 16, 2/1651; No. 162, 2/1701; No. 183, 2/1718):

1. Article 15.61 is to be amended as follows:

'Article 15.61. Concealment, deliberate falsification and (or) untimely transfer of information on accidental pollution of the environment and sources of environmental pollution

1. The concealment, deliberate falsification and (or) untimely transfer of information on accidental pollution of the environment and sources of environmental pollution by anyone who has an obligation to provide such information, -

is to entail a fine of between 20 and 50 basic units.

2. Repeat acts committed within the course of a year after imposition of an administrative penalty for the same offences, -

are to entail a fine of between 30 and 50 basic units.'

2. Articles 23.86-23.87 are to be added to the Code as follows:

'Article 23.86 Breach of the procedure for providing, disseminating environmental information and (or) concealment, deliberate falsification of environmental information

1. Breach of the procedure for providing, disseminating environmental information

and (or) concealment, deliberate falsification of environmental information by an authorised official of a public authority, of another legal entity, by a sole trader -
is to entail a fine of between 20 and 50 basic units.

2. Repeat acts committed within the course of a year after imposition of an administrative penalty for the same offences, -
are to entail a fine of between 30 and 50 basic units.

Article 23.87 Breach of the procedure for public discussion of environmentally significant decisions

Breach of the procedure for public discussion of environmentally significant decisions by an authorised official of a public authority, of another legal entity, by a sole trader -
is to entail a fine of between 20 and 50 basic units.’.

Article 5. The following amendments and additions are to be made to the Procedural and Enforcement Code of Administrative Offences of the Republic of Belarus of 20 December 2006 (National Register of Legislation of the Republic of Belarus, 2007, No. 14, 2/1291; No. 118, 2/1307; No. 119, 2/1318; No. 120, 2/1325; No. 121, 2/1326; No. 123, 2/1328; No. 132, 2/1330; No. 160, 2/1343; No. 175, 2/1370, 2/1371; No. 263, 2/1376):

1. In Article 3.2:
in paragraph 1:
the figures ‘23.86, 23.87’ are to be added after ‘23.71,’;
2. In Article 3.7:
in paragraph 1:
the figures ‘23.86’ are to be added after ‘23.84,’;
3. In Article 3.20:
in paragraph 1:
the figures ‘23.86, 23.87’ are to be added after ‘23.16,’;
4. In Article 3.30
in paragraph 1:
in sub-paragraph 16:
the figures ‘23.86’ are to be added after ‘23.84,’;
in sub-paragraph 28:
the figures ‘23.86, 23.87’ are to be added after ‘23.42,’.