

Government presents bills to reform legislation on environment and sectorial permits

On January 10, 2024, the Government submitted to Congress three bills introducing significant modifications concerning environmental regulations and sectorial permits.

I. *Bill that modifies the Law of General Bases of the Environment*

Through Presidential Message No. 292-371, the Executive branch presented a bill with the purpose of strengthening the environmental institutional framework and improving its efficiency, introducing amendments to the Law of General Bases of the Environment (Law No. 19,300), including:

- 1 Regarding the Environmental Impact Assessment System (SEIA):
 - a Certain rules regarding entry into the SEIA are modified, including entry typologies. For example, the 3 MW threshold for electricity generation projects is eliminated, and new typologies regarding desalination plants and hydrogen storage are added.
 - b With respect to the evaluation of impacts, changes are introduced in regard to synergic effects and in the monitoring of environmental variables, among others. In addition, an expedited procedure for urgent projects is introduced.
 - c The Environmental Approval Resolution (RCA) reclamation regime is modified, establishing an administrative recourse before the Executive Directorate of the Environmental Assessment Service (SEA) and then a reclamation before the Environmental Court, eliminating the Committee of Ministers.
 - d Regarding the qualification of projects, the contents of the RCAs are adjusted and changes are introduced regarding RCA review. In addition, the Evaluation Commissions are eliminated, placing the environmental qualification of projects or activities in the Regional Directorates of the SEA.
 - e An affidavit may be submitted to introduce modifications to projects with RCA, as long as they are not major changes.
 - f The institution of "early participation" is created, which will be voluntary and prior to entry into the SEIA.
 - g The possibility of citizen participation in the processing of Environmental Impact Declarations (DIA) is expanded.
- 2 With respect to environmental damage liability, changes are introduced in the standing of the State Defense Council, in the rules on burden of proof, and in the computation of the statute of limitations. The statute of limitations shall be five years from the last evident and full manifestation of the damage.
- 3 Certain functions and attributions are subtracted from the Council of Ministers for Sustainability and Climate Change, and its operation is improved.

II. *Bill that strengthens the Superintendence of the Environment*

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Likewise, through Presidential Message N°291-371, the Executive branch presented a bill with the purpose of strengthening the Superintendence of the Environment (SMA) and improving certain aspects of its operation, for which it introduces several innovations in the Organic Law of such agency (Law N°20,417), including:

- 1 Improving the management of complaints, transferring to the municipalities the control and sanction of noise nuisance, except for projects with RCA.
- 2 Optimization of the sanctioning procedure, creating a simplified procedure for minor infractions.
- 3 Introduction of "early correction mechanisms" that the SMA will be able to apply instead of the sanctioning procedure, such as warning letters, correction plans or other instruments, in case of minor infractions.
- 4 Strengthening of compliance incentive instruments. With respect to Compliance Programs (PDC), the deadline for their filing is extended to 15 days, and a maximum period of 6 months is established for their processing. Having caused environmental damage is included as an impediment for the presentation of a PDC, among other restrictions. New admissibility standards are added for PDCs. Regarding Reparation Plans, it is expressly established that their presentation will be mandatory for those who have caused environmental damage.
- 5 Enhancement of the precautionary power of the SMA, expanding the framework for the application of urgent and transitory measures. In addition, in sanctioning procedures, the SMA may order the adoption of legality reestablishment measures.
- 6 Strengthening of environmental inspection, granting inspectors the power to seize objects and documents when they are essential for the success of the investigation, with prior authorization from the Environmental Court.
- 7 Expansion of the catalog of infractions and toughening of the classification of the seriousness of the infractions. In addition, it increases the maximum fines (the new maximum fine will be 20,000 UTA).
- 8 Amendment to Law No. 19,300, in order to eliminate the requirement of direct malice for the configuration of the infraction of SEIA elusion.

Sectorial Permits Framework bill

By means of Presidential Message No. 293-371, the Government submitted the Sectorial Permits Framework bill with the purpose of encouraging investment and economic growth, introducing important innovations, such as:

- 1 Creation of the System for Sectorial Regulation and Evaluation, comprising the set of policies, institutions and rules designed to ensure the correct processing of sectorial authorizations applicable to projects or activities, under the principles of standardization, predictability, proportionality, administrative simplification and facilitation.
- 2 Implementation of typologies for the classification of sectorial authorizations and introduction of a mechanism that allows the replacement of certain permits with alternative enabling techniques, such as notices and affidavits. Minimum procedural standards and maximum terms for resolution are established, as well as innovations in the matter of administrative silence.
- 3 Creation of the Sectorial Regulation and Evaluation Service, which is mandated to advise and assist sectorial agencies and recommend policies to the President of the Republic, among other functions.
- 4 Establishment of the Unified Information System of Sectorial Permits, consisting of an electronic system of information and management of sectorial authorizations, affidavits and notices, operating as a "single window" platform.
- 5 Modification to 37 legal bodies, for the sectorial agencies to implement the mechanisms established in the Framework Law. In addition, adjustments to multiple regulated sectorial procedures are incorporated. For example, the

Water Code and the Mining Site Closure Law are modified to reduce response times and update procedures. It is also worth mentioning the amendment to the Sanitary Code, which enables the filing of affidavits in place of several sector authorizations.

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