



LEGAL FLASH | PUBLIC LAW

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ENVIRONMENTAL IMPACT ASSESSMENT - HYDROCARBONS



LAW NO. 37/2017, OF JUNE 2

Law no. 37/2017, published on June 2 and entering into force on June 3, proceeds to the third amendment to Decree-Law no. 151-B/2013, of October 31, which establishes the legal regime for the environmental impact assessment of public and private projects likely to produce significant effects in the environment.

It encompasses a surgical amendment which makes the environmental impact assessment mandatory in the prospecting, research and extraction operation of hydrocarbons.

Article 4 of Law no. 37/2017 sets the deadline of 90 days from the entry into force of the diploma to form a technical commission destined to assure the monitoring of the execution of prospecting, research and extraction of hydrocarbons agreements; to guarantee the exchange of information between the various entities that take part in the environmental assessments and in the environmental management; and to monitor the enforcement of the prospecting, research development and production of oil and issue recommendations.

Also relevant is what is set forth on article 5, which has in view concession agreements already entered into or licenses already issued and establishes that there cannot be an administrative permission for the subsequent phases under Decree-Law no. 109/94¹) without the compliance with the prescriptions of this Law no. 37/2017. That means that an environmental impact assessment may be required.

In what concerns the specific amendments to Decree-Law no. 151-B/2013, we must highlight the following topics:

- i) Article 1, which regulates the scope of the diploma, now specifically mention that this regulation applies to sea areas under the Portuguese Jurisdiction;
- ii) Article 3, which regulates the previous evaluation procedure and the decision to submit a project to the environmental impact assessment, is added two new numbers, establishing that, regarding the projects of prospecting, research and extraction of hydrocarbons, the previous evaluation proceeding must encompass a public consultation phase with no less than 30 business days;
- iii) Annex II of Decree-Law no. 151-B/2013 now encompasses the regulation amendments above mentioned, and requires an environmental impact assessment for all of the hydrocarbons extraction activities, for all the research

¹ Which regulates the access to and exercise of oil exploration, research, development and production in the available areas of the surface of the national territory, internal waters, territorial sea and the continental shelf, as well as the carrying out of studies of prior evaluation of the potential interest in said activity.



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and survey with non-conventional methods, and the conventional research and survey methods being subject to an environmental impact assessment in a case by case analysis.

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