

ERSE gets new supervisory duties

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Pursuant to the State Budget 2017 – approved by Law 42/2016, which entered into force on 1 January 2017 – the liquefied petroleum gas, petroleum-derived products and biofuels sectors, which were previously under National Fuels Market Authority supervision, are now subject to Energy Services Regulatory Entity (ERSE) supervision. This change entailed an amendment to the ERSE's statutes, which was recently approved by Decree-Law 57-A/2018 of 13 July.

The main aim of these changes is to:

- place the liquefied petroleum gas, petroleum-derived products and biofuels sectors under the ERSE's supervision; and
- establish a new ERSE consulting body and revenue source.

New supervisory duties

Pursuant to the amended statutes, the ERSE's supervision of the above sectors includes, among other things:

- general monitoring and supervision, with a particular focus on:
 - the commercial relationship between agents and clients;
 - access fees for storage, distribution and supply infrastructures;
 - market functions;
 - the national supply of crude oil and petroleum-derived products;
 - compliance with obligations concerning piped liquefied petroleum gas; and
 - the development and use of refining capacities;
- promoting the rights and interests of consumers;
- conducting audits; and
- advising on the licensing of prominent oil installations.

A new consulting body, the Fuels Council, has been established to support the ERSE's new responsibilities. The Fuels Council is made up of several energy industry representatives and is divided into one unit focused on the petroleum-derived products and biofuels sectors and another on the liquefied petroleum gas sector.

Further, pursuant to the ERSE's new duties, all fees, contributions and regulatory taxes charged to participants in the national petroleum system will constitute a new revenue source.

Minor changes have also been made to the ERSE's consulting bodies. The Advisory Council now includes a representative of the Directorate General for Energy and Geology and the Fees Council now includes a government-appointed expert and a representative of minor energy retailers.

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New duties in electricity and natural gas sectors

Finally, apart from the specific responsibilities granted to ERSE concerning the liquefied petroleum gas, petroleum-derived products and biofuels sectors, Decree-Law 57-A/2018 of 13 July 2018 also ascribed the following new duties to ERSE in the electricity and natural gas sectors:

- the issuance, upon the request of the General Directorate for Energy and Geology, of a prior binding opinion on the capacity and conditions for network connection, as well as the respective blocking for the purposes of attributing electricity generation licences; and
- the promotion, organisation and capacity allocation for special regime electricity generation (ie, electricity generation via endogenous resources) referred to in Article 33(4)(F) of Decree-Law 172/2006 of 23 August.

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