

ALERT**Extended producer/importer responsibility**

At present, a draft¹ of the new rules on implementation of extended producer/importer² obligations (hereinafter - the "**New Rules**"), which, presumably, will replace the existing ones³ (hereinafter - the "**Current Rules**"), is under public discussion.

The amendments, which are to be introduced by the New Rules, are of mostly editorial nature made for the purposes of compliance with the new Environmental Code. In this regard, this alert will highlight only the most significant ones.

Thus, one of such significant amendments is the proposal to exclude the provisions on specialised organisations with which the operator⁴ is obliged to sign agreements on performance of collection, transportation, processing, disposal and use of waste generated after loss of consumer properties by the products/goods as well as their packaging.

Another significant amendment is addition of the clarification that the obligations on recycling payment⁵ will apply only to the products/goods imported to Kazakhstan from outside the EAEU under the customs procedure of "release for domestic consumption"⁶. The Current Rules do not clarify as to which customs procedure shall be applied.

Moreover, the New Rules⁷ propose to add a provision according to which the producers/importers of cable and wire products will have to provide additionally invoices⁸ as well as serial production conformity certificates in respect of such products⁹ upon application for recycling payment.

Among other things, the New Rules¹⁰ consider amending the list of documents required for subsequent recycling payment in respect of vehicles and self-propelled agricultural equipment imported into Kazakhstan.

In particular, if the abovementioned goods are to be imported from the EAEU countries, the importers will be obliged to provide the following documents:

- confirmation of border crossing;
- passport of vehicle¹¹/self-propelled vehicle;
- structure safety certificate on vehicle¹²/conformity certificate on self-propelled agricultural machinery;
- acceptance certificate (if any);
- bill of lading/international bill of lading CMR (if any).

While according to the Current Rules¹³, the importers are entitled to provide any of the above documents at their own discretion.

In case vehicles or self-propelled agricultural machinery will be imported from other countries, the importers, in addition to the above documents, will be obliged to provide a customs declaration confirming

¹ <https://bestprofi.com/document/2604944828?0>

² According to the Article 386.1 of the Code of the Republic of Kazakhstan dated 2 January 2021 No. 400-VI "Environmental Code of the Republic of Kazakhstan" (hereinafter – the "**Environmental Code**"), extended producer/importer obligations are recognised as obligations on collection, transportation, preparation for reuse, sorting, processing, neutralisation and/or disposal of waste generated after the loss of consumer properties by the products/goods included in the list approved by the Order of the acting Minister of Energy of the Republic of Kazakhstan dated 4 December 2015 No. 695 "On approval of the list of products (goods) subject to the extended producer/importer obligations".

³ The Resolution of the Government of the Republic of Kazakhstan dated 27 January 2016 No. 28 "On approval of the Rules on implementation of the extended producer/importer obligations".

⁴ According to the subparagraph 8 of the paragraph 2 of the New Rules, an operator is recognised as a legal entity determined by the decision of the Government of the Republic of Kazakhstan which organises collection, transportation, preparation for reuse, sorting, processing, neutralisation and/or disposal of waste generated after the loss of consumer properties by the products/goods as well as their packaging.

⁵ According to the subparagraph 2 of the paragraph 2 of the New Rules, a recycling payment means a payment to an operator made by a producer/importer for organisation of collection, transportation, preparation for reuse, processing, neutralisation and/or disposal of waste generated after the loss of consumer properties by the products/goods as well as their packaging.

⁶ Paragraph 17 of the New Rules.

⁷ Paragraph 19 of the New Rules.

⁸ If an invoice is in a foreign language, a notarised translation shall be attached.

⁹ Provided that cable and wire products are environmentally safe (non-combustible and/or with reduced fire hazard as well as low smoke/gas emission) and their waste is recyclable in Kazakhstan.

¹⁰ Subparagraph 3 of the paragraph 28 of the New Rules.

¹¹ Registration certificate issued by the EAEU country.

¹² Vehicle type approval.

¹³ Subparagraph 3 of the paragraph 27 of the Current Rules.

the import of such goods under the customs procedure of “release for domestic consumption”¹⁴. At present, according to the Current Rules¹⁵, the list of required documents for import from such countries is limited by the customs declarations only.

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¹⁴ Subparagraph 2 of the paragraph 28 of the New Rules.

¹⁵ Subparagraph 2 of the paragraph 27 of the Current Rules.