

CLIENT ALERT

MANUFACTURING & INDUSTRIAL | TURKEY |

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BRIEF OVERVIEW OF THE NEW ORGANISED INDUSTRIAL ZONES IMPLEMENTATION REGULATION

The Ministry of Industry and Technology (the “**Ministry**”) has published a New Organised Industrial Zones Implementation Regulation on 2 February 2019 (the “**New Regulation**”), which has repealed and replaced the former Organised Industrial Zones Implementation Regulation dated 22 August 2009 (the “**Former Regulation**”), effective from 2 February 2019.

Although the Ministry seems to have taken the route of publishing a new draft rather than amending the Former Regulation, the implementation process has not changed significantly in practice. In general, the amendments are aimed at: (i) providing various new benefits to those companies operating in organised industrial zones (the “**Participants**”), (ii) accelerating bureaucratic procedures and (iii) clarifying some of the uncertainties faced in practice. In addition, the New Regulation provides for certain new provisions relating to the self-management of the organised industrial zones

Below we set out the key changes that have been introduced in the New Regulation:

NEW BENEFITS FOR THE PARTICIPANTS

- The construction of a generator room, a power distribution unit, a solid waste landfill and water tank on greenfield areas is now possible, as long as below and above ground level are also greenfield.
- The New Regulation also allows Participants holding shares in a given area of real estate to transfer and continue their operations in a separate plot, as long as all the other Participants holding shares in that plot have given their approval.
- The construction of facilities generating electricity from solar and wind power for the own needs of the participants is now possible, provided that the necessary measures are taken to ensure that the other Participants are not affected negatively.
- The minimum amount of the bid bond to be provided by the Participants for tenders in organised industrial zones using the Ministry credits, has been reduced from 7% to 3% of the exploration cost, and the minimum performance bond amount has been reduced from 14% to 10% of the tender price.
- Even where the infrastructure for the facility has not been completed according to the approved parcelling plan, land allocation will be possible as long as confirmation of compliance with the relevant deadlines is provided.
- The one-year period for obtaining a building licence (following the date of allocation), can be extended by up to 18 months, and the two-year period for obtaining a workplace opening and operation licence (once the building licence has been obtained) can be extended for another two years by the board of directors of the organised industrial zone. This two-year period may be extended for a further year by the Ministry.

ACCELERATING BUREAUCRATIC PROCEDURES

- In the event of any objections raised to the zoning plan, the correction of factual mistakes, or corrections that do not affect third parties, will not suspend or delay the administrative process.
- Decisions on the rejection of a land allocation demand will be notified to the applicant and to the Ministry in writing within 15 days, including an explanation of the grounds for rejection. If the land allocation is approved, the organised industrial zone will notify the applicant of the decision in writing within 10 business days. These new deadlines are aimed at accelerating the land allocation process.

CLARIFYING PRACTICAL ISSUES

- Organised industrial zones will be responsible for collecting, temporarily storing, transporting, recycling, using and removing the excavated soil generated in the organised industrial zone. This change has clarified an important practical dispute on the area of responsibility between the municipalities and the organised industrial zones. The New Regulation also mentions that the administration of the organised industrial zone will be liable for taking all the necessary precautions pursuant to the relevant environmental regulations regarding all kinds of waste that may pollute the environment.
- Facilities situated in an organised industrial zone are now allowed to accept waste products from outside the organised industrial zone to an extent aligned with their refining and waste processing capacity.

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