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New Code on Subsoil and Subsoil Use for mining companies

On 27 December 2017, Kazakhstan adopted a new Code on Subsoil and Subsoil Use for mining companies (the “Code”) to come into force six months after its official publication[1]. The Code will replace the current Law on Subsoil and Subsoil Use dated 24 June 2010 save for a limited number of provisions applicable to those subsoil users that will keep their subsoil use contracts without transitioning to relevant subsoil use licences.

Broadly, mining regulation can be categorized by reference to the following specific minerals:

- (i) solid minerals (gold, silver, coal, etc.), except for uranium; and
- (ii) commonly occurring minerals (sand, clay, etc.).

Please note that the Code, in addition to above minerals, also deals with (i) hydrocarbons (oil, gas, coalbed methane) exploration and production and (ii) uranium production.

The Code regulates the following types of subsoil use operations:

- 1) geological survey of subsoil;
- 2) exploration of minerals;
- 3) production (mining) of minerals;
- 4) subsoil space use; and
- 5) artisanal mining.

According to the Code current mining companies’ licences (received before August 1999) and/or subsoil use contracts (concluded before the Code coming into force) preserve their force, as well as their project documents.

Any current mining company will have an option either

- 1) to preserve its subsoil use contract; or
- 2) at any time before the expiration of its subsoil use contract to obtain an exploration or mining (production) licence with a permission of the commission to be created by the competent authority.

What we offer

We have analyzed the Code and are ready to give advice on all related issues.

For instance, the following themes might be of interest:

- What will change for current subsoil users in mining sphere with the Code having come into force?

- Pros and cons of transitioning from a subsoil use contract to a subsoil use licence;
- The procedure for obtaining subsoil use licences, mandatory payments;
- Regulation by the Code of procurement issues, local content, stability provisions, open access of geological information;
- Transition to the CRIRSCO standards;
- When is the competent authority entitled to terminate a contract/licence?
- Novelties in liquidation of subsoil use consequences;
- Reporting of mining subsoil users;
- The Code and transactions on change of control over a subsoil use right, and so on.

Due to numerous requests from potential and current foreign mining investors with regard to the English version of the Code, we took an initiative and offer the below unofficial translation^[2] for your attention.

For clarification of certain provisions we inserted some footnotes and for ease of reference, we added the bracketed names of certain provisions referred to in Articles 277-278 of the Code.

Should you have any questions related to the Code or its implementation, please feel free to contact Partner, Yerbolat Yerkebulanov (yyerkebulanov@gratanet.com) and/or Partner, Baizhan Bekzhanov (bbekzhanov@gratanet.com).

You can download the English version of the Code [here](#).

Best regards,

Natural Resources Department

GRATA International

[1] The Code was officially published on 28 December 2017.

[2] Only provisions of the Special Part of the Code related to hydrocarbons, uranium and artisanal mining are not included in this document.

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