

Legal Alert

Amendment to the 10H Act

10H - Amendment to the Act on Investments in Wind Turbines

Distance Act

On 23 April 2023, an amendment to the Act on Investments in Wind Turbines of 20 May 2016, known as the Distance Act or 10H Act, came into force. The most important change is the lessening of the prohibition on building onshore wind turbines at a distance calculated as ten times the height of the wind turbine mast and rotor blade from residential buildings. The permitted distance is 700 metres between a wind turbine and such buildings now.

Distance of 700 metres from residential buildings

The amendment introduces many major changes to the way new wind turbines are located. The most important of them is changing the minimum distance between a planned wind turbine and residential buildings. The existing regulations practically prevented building new onshore wind turbines, as only a small area of Poland had a sufficiently low development density to comply with the 10H rule. The amendment lessens this prohibition considerably, as the number of areas where it is possible to locate wind turbines at a distance of at least 700 m from residential buildings is considerably higher. This means that the distance of wind turbines from residential buildings will be determined by municipal councillors when they adopt local master plans. It will be impossible to reduce this distance below the statutory limit of 700 metres.

Locating wind turbines only under LMPs

New wind turbines must only be located under local master plans (LMPs). An LMP will determine the distance at which wind turbines will be located from residential buildings; however, this distance cannot be less than 700 metres. The procedure for adopting an LMP will be extended to include a mandatory analysis performed as part of the strategic environmental impact assessment, assessing factors such as the impact of noise on local residents. The obligation to draw up an LMP authorising the location of a wind turbine will apply to the projected impact area of the turbines.

Exceptions to 700 metres rule

The amendment introduces special rules for calculating the minimum distance from selected transmission infrastructure or protected areas.

The minimum distance between wind turbines and extra-high voltage power lines should be equal to or greater than three times the maximum rotor diameter including blades (3D distance) or equal to or greater than two times the maximum total height of a wind turbine (2H distance), as specified in the LMP, whichever value is higher.

It will still be impossible to build wind turbines in the areas of national parks, landscape parks, nature reserves and Natura 2000 sites. If a wind turbine is located in the vicinity of a national park, it will be necessary to maintain a distance calculated in accordance with the current 10H rule, while for nature reserves, the minimum distance will be 500 metres.

Application of existing LMP

It is possible to build wind turbines under an LMP that was in force on the date when the 10H Act entered into force, provided that such LMP stipulated that the 700-metre minimum distance rule would not be violated when new wind turbines are built. The distance restrictions applicable to wind turbines located next to extra-high voltage power lines and natural protection areas will not apply to such LMPs.

Residents as beneficiaries

On 2 July 2024, regulations will come into force under which an investor is to offer at least 10 per cent of the installed wind power capacity to municipality residents. They will be able to use the electricity generated by the wind turbines like virtual prosumers. A resident will be entitled to take up a share of not more than 2 kW of wind turbine capacity and purchase electricity at a price resulting from calculating the maximum construction cost.

Who will my adviser be?



Rafał Hajduk

Partner | Infrastructure and Energy Practice

E: rafal.hajduk@dzp.pl

T: +48 22 557 86 00 | M: +48 607 377 980



Paweł Karasiński

Senior Associate | Infrastructure and Energy Practice

E: pawel.karasinski@dzp.pl

T: +48 22 557 90 44 | M: +48 693 865 539