

# NEW RULES FOR THE RENEWABLE ENERGY SECTOR

Decree-Law No. 99/2024 updates the regulatory framework for renewable energies, specifically to (i) fastening the licensing timelines for renewable energy projects, (ii) adjust the security deposit amount in agreements with the network operator, (iii) expand the concept of hybridization to include storage units, (iv) simplify the proximity criteria for UPACs, (v) update the rules regarding municipal compensations, (vi) simplify the rules for the use of RAN areas, and (vii) establish the basis for bilateral energy registration and contracting.

Decree-Law 99/2024 of December 3<sup>rd</sup>, partially transposed the RED III Directive and amended Decree-Law 15/2022.

We highlight the main changes:

## (i) Storage

The definition of 'Storage Facility' is extended to cover two specific types of storage:

- **Autonomous storage:** when the installation has a direct connection to the Public Service Electricity Grid ("**RESP**");
- **Colocated storage:** a storage facility that is combined with a renewable electricity generating center or UPAC and is connected to the same network access point.

In addition to the required procedures for obtaining a production license, prior registration or communication, storage activities must now undergo a verification process. This process checks the charging capacity of the RESP and is conducted by the network operator and the overall manager of the National Electricity System ("**SEN**"). The Portuguese Directorate-General for Energy and Geology ("**DGEG**") requests opinions from these entities to determine the maximum power allowed for charging the storage units from the RESP.

## (ii) Deposit

The amount of the security deposit has been changed from €15,000.00 to €10,000.00 per MVA of reserve capacity in the form of an agreement between the interested party and the RESP operator, with a maximum limit of €10,000,000.00, for a minimum period of 30 months (instead of the 24 months previously established), and will be extended until the electricity generating centre, storage facility or UPAC comes into operation, failing which the procedure will lapse.

The deposit will now also be refunded if the agreement between the interested party and the RESP operator is not signed for a reason attributable to the latter.

## (iii) Municipal Concessions

Concessions to municipalities where renewable electricity generating centres or storage facilities are located will now be subject to a threshold of 1 MVA of connection power assigned, as opposed to the previous 50 MVA, in which case the respective holder must cede to the municipality:

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- UPAC with installed power equivalent to 1% (instead of the previous 0.3%) of the connection power of the electricity generating centre; or
- Electric vehicle charging stations located in public spaces and intended for public use, provided they have equivalent capacity.

#### **(iv) Deadlines**

The deadlines for applying for the issue of a production and operating licence can now be extended without limit by decision of the member of the Government responsible for energy, in exceptional circumstances at the request of the duly justified applicant.

Nevertheless, maximum time limits have been set for the procedures for issuing production and operating licences, which can be extended by order of the DGEG for a maximum period of 6 months:

- Two years for onshore renewable energy projects; and
- Three years for offshore renewable energy projects.

The following periods are also now excluded from the deadlines for issuing the production and operating licence:

- Construction of electro-production centres, including their connections to the grid;
- The administrative process for significant modernisations of the network to guarantee its stability, reliability and security; and
- The procedures for administrative or judicial challenge of a decision, act or omission to comply with Decree-Law 15/2022.

The amendment to the production licence in the event of over-equipment and re-equipment cannot now exceed one year from the date of the application, and this period may be extended by order of the DGEG for a maximum period of 3 months. If the retrofit does not increase in installed power of more than 20%, the deadline is reduced to 3 months.

#### **(v) Autoconsumption**

The concept of proximity between the UPAC and the Electrical User Installation(s) ('UI') is amended, applying only the maximum distances between the UPAC and the UI of (i) 4 km in the case of a medium voltage connection; (ii) 10 km for high voltage connections and (iii) 20 km for very high voltage connections, when they are not connected to the same substation (in which case there is no maximum distance).

If the UPAC and IU are in low-density territories (identified by government decree) the distances increase twofold.

#### **(vi) Hybridisation**

The hybridisation of an electricity generating centre or UPAC can now take place after the issue of the Production Licence, Prior Registration or Prior Communication, i.e. without the project having entered operation.

Hybridisation also now allows for the possibility of new storage units and not just the addition of another renewable energy source, through an amendment procedure to the prior control title.

#### **(vii) EIA Exemption**

Solar power generation centers and their storage facilities, as well as additional equipment and retrofitting, are now exempt from Environmental Impact Assessment ("EIA") if they are

installed on existing or future artificial buildings or structures. However, this exemption does not apply to installations on artificial bodies of water, in classified areas or buildings being classified, and their respective protection zones, or in areas important to national defense or security.

In particular, the retrofitting of a solar or wind power plant is exempt from EIA when the retrofitting is implemented in the pre-existing power plant and complies with the conditions of the previous environmental permits and decisions issued.

**(viii) National Agricultural Reserve**

The rules for using areas of the National Agricultural Reserve (“**RAN**”) have been simplified. RAN areas can now be used for the purposes of installing solar power generation centres and their internal connection lines to the RESP, provided that these areas represent less than 10% of the total contracted area and are less than 1 hectare in size.

In addition, the requirements of article 22 of Decree-Law 73/2009, of 31 March, for the use of RAN areas are met when, for the purposes of installing supports and lines connecting energy centres to the RESP, they do not impose restrictions that harm agricultural activity.

**(ix) Measures to support Electro-intensive customers**

Consumption facilities with Electointensive Customer Status can now receive a reduction of up to 85% on the Costs of General Economic Interest (“**CIEG**”) charges, which are part of the overall system use tariff for electricity consumption from the RESP. This is an increase from the previous 75% reduction. However, the reduction cannot result in a charge lower than €0.5/MWh.

The intensity of the support is:

- 85% of the eligible cost if the installation belongs to a sector “at significant risk” (according to [Annex I of the European Commission Communication 2022/C 80/01 on the ‘Guidelines on State aid for climate and environmental protection and energy 2022’](#); and
- 75% of the eligible cost if the installation belongs to an “at risk” sector,

**(x) Registration and bilateral energy contracting activity**

The bases for the activity of registration and bilateral contracting of energy are established, which consists of the registration of all transactions operated by bilateral energy contracts, in which at least one of the parties is a market agent, including the compulsory registration of energy contracts, including their price and volume conditions.

ERSE will be responsible for regulating the activity and approving the respective Manual of Procedures, while the Government will be responsible for establishing the terms and conditions of the energy registration and bilateral contracting activity no later than 120 days after the entry into force of Decree-Law 99/2024.

The new rules come into force on 18 December 2024.

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