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Polish Energy Law: amendment comes into force

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Introduction

On 18 June 2021 the Act of 20 May 2021 (the amendment), which amended the Energy Law and certain other acts, was published in the *Journal of Laws*.

The amendment is referred to as the "meter law" because it states that remote energy consumption meters (so-called "smart electricity meters") will be installed for at least 80% of end users, including at least 80% of households, by the end of 2028.

Amendment objectives

The main objective of the amendment is to introduce solutions within the legal system to improve the functioning and development of the energy market in relation to the generation, transmission, storage, distribution and trading of energy.

The amendment also aims to implement the provisions of the Commission Regulation (2015/1222/EU), establishing a guideline on capacity allocation and congestion management (CACM regulation).

This imposes obligations on the regulator to ensure that the nominated energy market operator complies with the provisions of the CACM regulation.

Relevant legal solutions

The amendment provides, among other things, for:

- the introduction of a legal basis for the operation of closed distribution systems;
- the introduction of solutions for the operation and development of electricity storage facilities;
- the implementation of measures to counteract the unfair practices of certain sellers by prohibiting the conclusion of contracts for the sale of gaseous fuels and electricity outside business premises within the meaning of the Act of 30 May 2014 on consumer rights (contracts concluded in such a manner will be invalid);
- the power of the President of the Energy Regulatory Office to revoke a licence if the President of the Office of Competition and Consumer Protection issues a decision against an energy company stating that a practice infringes collective consumer interests within the meaning of the Act on competition and consumer protection;
- the obligation on sellers of gaseous fuels or electricity to provide public access to the current legal status relating to energy consumer rights;
- the strengthening of the supervisory powers of the President of the Energy Regulatory Office over the liquid fuels market to prevent irregularities;
- the streamlining of the auction procedure as regulated by the Act on the promotion of electricity from high-efficiency cogeneration;
- the launch of the central energy market information system (CSIRE); and
- the introduction of systemic solutions for the smart metering system.

Counteracting unfair practices and consumer protection

New solutions have been introduced to counteract the unfair practices of entrepreneurs towards consumers. This includes the ban on off-premises sales. According to the explanatory memorandum to the amendment's draft, this was motivated by numerous cases of fraud, and the misleading of household fuel and energy consumers during direct sales in the "door-to-door formula".

The explanatory memorandum also states that the ban is not supposed to slow down or prevent supplier switching. It is hoped that the creation of a system protecting consumers' rights is going to "mobilise consumers to take active measures on the gas and electricity market"⁽¹⁾

To strengthen the existing solutions, provisions have been included to allow the President of the Energy Regulatory Office to withdraw licences in cases where practices infringe collective consumer interests. This enables the regulator to fulfil its duties and balance the interests of the energy entrepreneur and the consumer.⁽²⁾

Replacement of meters

The introduction of systemic smart-metering solutions is the result of the implementation of several European legal acts, including Directive (2019/944/EU) of the European Parliament and Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive (2012/27/EU), as well as the implementation of a programme for the development of the smart electricity grid in Poland.

The amendment introduces the following schedule for meter replacement, and refers to the minimum percentage of smart electricity meters to be installed among the total number of energy points of end users:

- 15% up until 31 December 2023;
- 35% up until 31 December 2025;
- 65% up until 31 December 2027; and
- 80% up until 31 December 2028.

These solutions are expected to result in the rationalisation of electricity consumption in households and the reduction of the energy intensity of the economy. Additionally, consumer access to updated information on electricity consumption is expected to contribute to a reduction of the total operating costs of the electricity system and increase the flexibility and competitiveness of the electricity market.⁽³⁾

According to Minister for Climate and Environment Michał Kurtyka, the installation of smart electricity metering in Poland is expected to involve contracts exceeding Z17 billion and will provide Polish companies with an opportunity to "play a significant role in the digitalisation of the domestic energy sector and, simultaneously, for investments in this sector to become an economic flywheel after the covid-19 pandemic".

Implementation

The principal part of the amendment's provisions came into force 14 days after the date of its promulgation. However, an extended implementation period has been provided for many of the solutions, due to the need to adapt IT systems and prepare the market.

Work is currently in progress to prepare executive acts to the amendment.

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Endnotes

- (1) Explanatory memorandum to the amendment's draft, p 41.
- (2) Explanatory memorandum to the amendment's draft, p 12.
- (3) Explanatory memorandum to the amendment's draft, p 49.