

# Legal Alert

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## The extension of waste management permits

On 18 October 2022, the Act of 7 October 2022 on Special Solutions for the Protection of Electricity Consumers in 2023 in Connection with the Electricity Market Situation (Journal of Laws of 2022, item 2127) ("**Amending Act**") entered into force. In addition to regulations strictly related to the energy sector, the Amending Act introduces, i.a. the possibility of extending, during the period until 31 December 2025, the validity of waste management permits that are currently in force.

Under Article 226a(1) of the Waste Act of 14 December 2012 ("**Waste Act**") subsequently amended by the Amending Act, a held waste collection or waste processing permit does not expire after the lapse of the time for which it was issued if the application for a new permit is submitted no later than three months before the expiration of that time. An analogous solution has been provided for a waste production permit, as reflected in paragraphs 1c - 1e added to Article 193 of the Environmental Protection Law ("**EPL**").

### The above is also applicable to:

- a) waste permits which validity expires after the effective date of the Amending Act, i.e. after 18 October 2022, if an application for a new permit was submitted before 18 October 2022; and
- b) waste permits which validity expires before the expiration of 3 months from the effective date of the Amending Act (i.e. between 18 October 2022 and 18 January 2023), if an application for a new permit was submitted within the term of the existing permit,

with the proviso that, in such case, it is not required to observe the aforementioned 3-month application deadline.

A condition for benefiting from the amendment is that the entrepreneur maintains a collateral security for claims for adverse effects on the environment and environmental damage, including the costs of the removal and management of waste from a place not

intended for storage or warehousing, if such security is required under Article 48a of the Waste Act or Article 187 of the EPL. This security may be in the form of a deposit, a bank guarantee, an insurance guarantee, or an insurance policy, and must be maintained for the entire permit period, and with regard to the waste collection or waste processing additionally until a final decision on the return of the security for claims, issued under Article 48a(18) of the OPA, is obtained.

Consequently, the extension of waste permits will benefit holders of:

- a) a waste collection permit;
- b) a waste processing permit;
- c) a waste collection and processing permit;
- d) a waste generation permit; and
- e) a waste generation permit that includes waste collection or processing,

upon fulfilment of the following conditions:

Permit period	Condition I	Condition II
Permit valid until 31 December 2025	Submission of an application for a new permit no later than three months before the expiration of the period for which it was issued	Maintenance of the collateral security of claims, referred to in Art. 48a of Waste Act or Art. 187 of the EPL
Permit with a validity date lapsing after 18 October 2022	Submission of an application for a new permit before 18 October 2022	
Permit with a validity date lapsing between 18 October 2022 and 18 January 2023	Submission of an application for a new permit after 18 October 2022 – in each case, before the expiration of the existing permit	

If the waste holder takes advantage of the above solution, the existing permit remains in effect until:

- a) a new permit/permit (or a decision to refuse to issue a permit or discontinue the proceedings) becomes final and binding; or
- b) the application for such a new permit/permit is left unprocessed.

This solution is intended as a response to the prolonged administrative proceedings to amend waste permits to bring them into compliance with the requirements of the Law of 20 July 2018 amending the Waste Act and certain other laws. As some of these decisions were already expiring on 17 November 2022, or will expire in the near future, under the provisions on special arrangements related to the prevention, prevention, and combating of COVID-19, other infectious diseases and emergencies caused by them, the adopted legislation aims to keep the existing waste management decisions in force until new decisions are obtained, while maintaining the continuity of waste holders' operations.

Contact us:



**Witold Kurek**  
Senior Counsel, attorney-at-law  
☎ +48 606 817 065  
✉ witold.kurek@skslegal.pl



**Aneta Bąk**  
Associate, attorney-at-law  
☎ +48 698 166 129  
✉ aneta.bak@skslegal.pl