



NEW LAW 4964/2022 REGARDING THE REGULATORY FRAMEWORK ON OFF-SHORE WIND PARKS

(Brief presentation of the most important provisions)

After several months of anticipation, the Hellenic Parliament passed on 30.07.2022 Law 4964/2022 (GGI A' 50/30.07.2022) setting out the framework for the licensing and operation of offshore wind farms (hereafter the "**Law**"). The Law, which enters into force from its publication in the Government Gazette¹, was eagerly awaited by the market and the investment community in Greece and abroad in the aftermath of the major geopolitical and energy crisis of the last months and aspires to significantly change the energy map of Greece, exploiting the country's great energy potential in the wind energy sector.

The Law under the title "Simplification of environmental licensing, establishment of a framework for the development of offshore wind farms, addressing the energy crisis, forestry protection and other provisions" includes in Articles 65-80 provisions concerning offshore wind farms. The most important points of the Law are listed below.

Pursuant to Article 66 of the Law, the Greek State has the exclusive competence for the research and designation of the areas for the organized development of offshore wind farms (hereinafter referred to as "**Offshore Wind Farms or OWFs**") and areas for the installation of offshore wind farms, which is managed on its behalf by the société anonyme under the corporate name "Hellenic Hydrocarbons and Energy Resources Management Company S.A." and the distinctive title "HEREMA" provided in Article 145 of Law 4001/2011. HEREMA acts as a management entity (hereinafter referred to as the "**Management Entity**") with regard to the Offshore Wind Farms and is responsible for the planning of their development.

1. Offshore Wind Farm Development Planning and Identification of Areas for Organized Development and Installation of Offshore Wind Farms – Competences of the Management Entity²

The Management Entity shall be responsible for the preparation of technical studies for the designation of the areas in which the offshore wind farms will be developed (hereinafter referred to as the "**Offshore Wind Farm Organised Development Areas**"). Each Offshore Wind Farm Organized Development Area will consist of more than one offshore development areas. The Management Entity, taking into account the national offshore wind farm development programme and the specific conditions of each Organised Offshore Wind Farm Development Area, shall determine the minimum and maximum capacity of the offshore Wind Farm projects that can be installed in each area. Subsequently, a Presidential Decree issued following an opinion of the Minister of Environment and Energy and the Central Council for Spatial Planning and Disputes shall designate one or more Areas of Organised Offshore Wind Farm Development and shall lay down the conditions for the development of offshore wind farms in these areas as well as the specific conditions for the protection of the environment.

¹ See article 201 of the Law

² See articles 67 and 68 of the Law.

2. Licensing procedure for offshore wind farms

The licensing of OWFs is carried out in two stages: (a) the stage of granting a research permit within the designated Organized Development Areas and (b) the competitive procedure for selecting an investor for the installation of OWFs.

2.1 Issuance of an Offshore Wind Farm Research Permit³

Within a period of two (2) months as of the issuance of the Presidential Decree designating the Areas of Organized Development of OWFs, the starting date and the time-limit for the submission of applications by interested investors for the issuance of Research Permits for OWFs within the designated Areas shall be determined. Each application period shall have a duration of two (2) months. New application periods may commence after six (6) months as of the end of the above two-month period.

Any interested investor may apply for a Research Permit in more than one Designated Areas of Organized Development of OWFs.

(a) Eligible to apply for a research permit for OWFs are Natural persons or legal entities established:

- i)** in a Member State of the European Union (EU),
- ii)** in third countries which have concluded multilateral or bilateral international agreements with the EU in the field of renewable energy sources, providing for reciprocal market opening and to the extent that the authorisation to be issued falls within the scope of such agreements

(b) Criteria of professional, technical and financial competence

The criteria of professional and technical competence and financial and economic competence of the investors shall be determined by a decision of the Management Entity. The Law requires at least as regards professional and technical capacity:

- i)** Proven experience during the last ten (10) years in the development and operation of OWFs projects, including at least one OWFs project with a capacity of one hundred (100) MW; and
- ii)** Proven experience in the operation and maintenance of OWFs projects with a capacity of more than twenty-five (25) MW.

(c) With respect to financial and economic competence, the below minimum criteria are required:

- i)** an annual turnover of the natural or legal person or its shareholders (in that case the cumulative turnover is taken into account) applying for a OWFs Research Permit of more than two billion euros (€2,000,000,000) (average of the last three years); In case the applicant is an investment fund, for the eligibility of its participation when calculating the above sum, the total funds managed by the investment fund may alternatively be taken into account;
- ii)** an equity to debt ratio of more than twenty percent (20%); and
- iii)** the submission of a letter of guarantee in the amount of ten thousand Euros (€10,000) / MW.

Finally, the application for the granting of a Research Permit must be accompanied by a proof of deposit of an one-off permit fee amounting to ten thousand Euros (€10,000).

If all the criteria are met, the Management Entity issues the Research Permit or rejects the application within thirty (30) days as of the date of its submission. The duration of the Research Permit shall be specified therein and, in any case, shall automatically cease to be valid after three (3) years as of its issuance, and shall be non-transferable⁴.

³ See article 69 of the Law.

⁴ See article 70 of the Law.



2.2. Competitive Selection Process⁵

The Management Entity, within two (2) years as of the end of the first cycle of applications for the granting of a OWFs Research Permit, posts for public consultation the OWFs installation areas in each Offshore Wind Farm Organized Development Area. The participants in each discrete competitive process must possess an OWFs Research Permit for the respective area. Each participant shall submit distinct bids for each OWFs installation area located within the Offshore Wind Farm Organized Development Area for which it has obtained a Research Permit and for which he wishes to install a OWFs Project.

The competitive bidding procedure is announced by a decision of the Regulatory Authority for Energy (“RAE”) setting out the specific criteria.

Until the total tendered capacity is covered, upon completion of each competitive bidding procedure, RAE shall issue and post on its website, a result table for each OWFs Area, the successful bidder for the implementation of the OWF’s Project in each OWFs Area, announcing the participant with the lowest and the highest bid.

3. Licensing of Offshore Wind Farms⁶

Potential investors possessing Research Permits in the Offshore Wind Farm Organized Development Areas will subsequently submit to RAE an application for the issuance of a Producer’s Certificate of Special Projects, pursuant to Article 11 of Law No. 4685/2020⁷ and the Producer’s Certificates Regulation.

Afterwards, RAE issues, within three (3) months as of the submission of the application of the potential investor, a Producer’s Certificate for Special Projects for a period of up to thirty (30) years, which may be renewed for an equal period.

OWFs investors who receive a Producer’s Certificate of Special Projects are obliged to obtain all necessary permits and approvals within the time-limits set out in the Producer’s Certificates Regulation and Law 4685/2020. The OWFs investor is required to put the project into operation no later than six (6) years as of the date of the competitive procedure in which he was selected. Otherwise, all relevant permits and authorisations shall be automatically cancelled.

4. Special Fee Imposed on offshore wind farms⁸

Without prejudice to article 25a of Law 3468/2006, which does not apply to Offshore Wind Farm Projects, as of the start of the trial operation of the OWFs until the end of its operation, each producer shall be charged a Special OWFs Fee corresponding to a percentage of two percent (2%) of the revenue before VAT from the sale of electricity, which shall not be less than two euros (€2) per MWh produced.

⁵See article 71 of the Law.

⁶See article 73 of the Law.

⁷Article 11 of L.4685/2020 has been amended with article 79 of L.4951/2022 [GGI A’ 129/4.7.2022].

⁸See article 75 of the Law.



5. Connection to the system⁹

The Independent Power Transmission Operator (ADMIE as per its Greek acronym) will be solely responsible for the design, development, construction and operation of the interconnection works from the Hellenic Electricity Transmission System (HETS) to the Offshore Wind Farm Organised Development Areas.

For each OWF installation area, the investor succeeded in the competitive procedure submits to ADMIE an application for the issuance of a final connection offer, which is accompanied by an interconnection study of the OWF with the HETS and an Environmental Terms Approval. Each Investor undertakes the cost for the construction of the interconnection works, as specified in the final connection offer issued by IPTO.

Following the issuance of the final connection offer, a connection agreement is signed between IPTO and the investor which specifies the rights and obligations of the parties.

6. Conclusions

The Law intends to be a reference point for the implementation of significant investments in a field of an important investment activity that has so far remained unexploited. In view of the energy crisis and the broader geopolitical turmoil leading to the acceleration of the European Union's energy independence from fossil fuel energy sources, the importance of the Law becomes even more important.

⁹See article 71 of the Law.

For more information, please contact:



E: nanastopoulos@politispartners.gr



E: dtheodoropoulos@politispartners.gr

14, SOLONOS STR.
106 73, ATHENS, GREECE

Tel.: +30 210 7297252
Email: info@politispartners.gr
Web: www.politispartners.gr

POLITIS & PARTNERS
Law Firm