

# The provisions have been updated of the Code of Administrative Offences and Criminal Code in the field of procurement

*FAO CEOs and employees of corporate legal departments, contact centres and tender departments*

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**Pepeliaev Group advises that, on 20 December 2024, the Federation Council approved the Law<sup>1</sup> amending the Code of Administrative Offences to the extent of administrative liability for a breach of Russian procurement legislation. At the same time, the corresponding amendments<sup>2</sup> have been made to the Criminal Code.**

The Law has become necessary owing to the fact that the process of the optimisation of purchasing procedures that has been actively pursued in recent years has resulted in most administrative offences no longer being relevant.

The provisions of the Law take effect on **1 March 2025**.

Let us examine the main new developments.

## **1. Optimisation of the structure of the Russian Code of Administrative Offences**

It is proposed that all elements of administrative offences that are connected with public procurement and compulsory bids be set out in a single block of 6 articles. The Code, therefore, is supplemented by articles 7.30.1 - 7.30.6.

The elements of administrative offences are brought into compliance with the amended industry-based legislation. Some of articles are taken out. Larger fines are established for a number of offences. Provision is made for warnings to be issued and for the disqualification of officers for repeat offences.

### **1.1. Amendments to amounts of fines for breaches of Law No. 44-FZ<sup>3</sup> and 223-FZ<sup>4</sup>**

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<sup>1</sup> <https://sozd.duma.gov.ru/bill/594965-8>

<sup>2</sup> <https://sozd.duma.gov.ru/bill/594966-8>

<sup>3</sup> Federal Law No. 44-FZ "On the contractual system in the area of the procurement of goods, work and services to provide for state and municipal needs" dated 5 April 2013.

<sup>4</sup> Federal Law No. 223-FZ "On the procurement of goods, work or services by certain types of legal entities" dated 18 July 2011.

**More stringent** liability is established for certain violations of Laws Nos. 44-FZ and 223-FZ, for instance:

<b>Violation</b>	<b>Before</b>	<b>Now</b>
<b>Law No. 44-FZ</b>		
<b>Incorrect choice of the procurement method</b>	RUB 30,000	between RUB 30,000 and RUB 50,000
<b>Failure to comply with the volume of purchases from small and medium-sized enterprises and socially oriented non-commercial organisations</b>	RUB 50,000	between RUB 40,000 and RUB 60,000
<b>Violation of the deadline for entering into a contract</b>	RUB 50,000	between RUB 5,000 and RUB 30,000
<b>Violations in the field of amendments to terms of contracts</b>	RUB 20,000 for a company's officers RUB 200,000 for legal entities	between RUB 10,000 and RUB 50,000 for a company's officers between RUB 100,000 and RUB 300,000 for legal entities
<b>Violations during the justification of the maximum starting price of a contract</b>	RUB 10,000	1% of the maximum starting price of the contract, but no less than RUB 10,000 and no more than RUB 50,000
<b>Law No. 223-FZ</b>		
<b>Establishing unlawful requirements for participants in public procurement</b>	between RUB 2,000 and RUB 3,000 for a company's officers between RUB 5,000 and RUB 10,000 for legal entities	between RUB 5,000 and RUB 30,000 for a company's officers <sup>5</sup> between RUB 10,000 and RUB 30,000 for legal entities

## 1.2. Introducing a warning and a disqualification

For the first time, in a number of situations it is permitted to issue **warnings** to offenders:

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<sup>5</sup> At the same time, in these situations, officers may have a warning issued instead of a fine.

<b>Violation</b>	<b>Sanction:</b>
<b>Law No. 44-FZ</b>	
<b>Violation of the procedure of forming and approving schedules</b>	A warning <b>or</b> a fine between RUB 5,000 and RUB 10,000 for a company's officers
<b>Violation of requirements for the content of documents formed during purchases</b>	A warning <b>or</b> a fine between RUB 3,000 and RUB 10,000 for a company's officers
<b>Violation of requirements for examining and assessing applications or an unlawful rejection of a request or the removal of a participant in the procurement process</b>	A warning <b>or</b> a fine for officers in the amount of 1% of the maximum starting price of a contract, but no less than RUB 5,000 and no more than RUB 30,000.
<b>Violation of the procedure for terminating a contract in the event of a unilateral refusal to perform the contract.</b>	A warning <b>or</b> a fine between RUB 10,000 and RUB 50,000 for a company's officers for legal entities - between RUB 100,000 and RUB 200,000.
<b>Law No. 223-FZ</b>	
<b>Violation of requirements for the content of documents formed during purchases</b>	A warning <b>or</b> a fine of RUB 3,000 to RUB 10,000 for a company's officers for legal entities - between RUB 10,000 and RUB 30,000
<b>Violation of requirements for the procedure or timeframe for placing information and documents or for sending them to be placed in registers</b>	A warning <b>or</b> a fine between RUB 10,000 and RUB 20,000 for a company's officers for legal entities - between RUB 30,000 and RUB 50,000

For certain types of offences a repeat breach by an officer of a company results in his or her **disqualification** for a period from 1 to 2 years, for instance:

- for a repeat acceptance of deliverables at an individual stage of a contract being performance, goods being supplied, work being performed or a service being rendered, if they do not meet the terms and conditions of the contract;
- for a repeat breach of the deadline or procedure for payment for an individual stage of a contract (its results) being performed, goods being supplied, work (or results of such work) being performed or a service being rendered, including the failure to perform an obligation to ensure an advance payment stipulated by the contract.

### **1.3. New fines**

**New fines** are established:

<b>Violation</b>	<b>Sanction</b>
<b>Law No. 44-FZ</b>	
<b>Violation of requirements for documenting acceptance of deliverables at an individual stage of a contract being performed, goods being supplied, work being performed or a service being rendered, or the terms of such acceptance;</b>	A fine from RUB 10,000 to RUB 20,000 for company's officers
<b>Law No. 223-FZ</b>	
<b>Violation of the volume of purchases from small and medium-sized enterprises and socially oriented non-commercial organisations</b>	A fine from RUB 30,000 to RUB 50,000 for a company's officers RUB 50,000 - RUB 100,000 for legal entities
<b>Violation of the procedure or deadlines for entering into a contract</b>	A fine from RUB 5,000 to RUB 30,000 for a company's officers RUB 30,000 - RUB 50,000 for legal entities

#### **1.4 Introducing penalty sanctions for banks and credit institutions**

Since 2022, banks have been full-fledged subjects of control in the field of public procurement, given that they perform legally significant actions aimed at ensuring that legal entities, individuals and individual entrepreneurs participate in the public procurement process. Taking account of the above, the Code of Administrative Offences is supplemented with provisions regarding banks being held liable for a violation of procurement legislation:

<b>Violation</b>	<b>Sanction</b>
<b>Violation of requirements for the procedure or timeframe for placing information and documents or for sending them to be placed in registers</b>	Fine between RUB 30,000 and RUB 50,000
<b>Non-performance by a competent bank of the obligations established by Russian legislation in the event of banking support being provided with regard to a transaction</b>	A warning or a fine between RUB 30,000 and RUB 50,000
<b>Performance by a competent bank of transactions on an account opened for the main service provider or service provider for settlements under a state</b>	A fine between RUB 100,000 and RUB 1,000,000.

<b>defence order, if such transactions are not allowed on such an account</b>	
<b>Violation of the procedure for freezing and unfreezing funds on the bank account of a participant in procurement</b>	A warning or fine in the amount of 1% of the funds that are subject to freezing or unfreezing, but not less than RUB 5,000 and not more than RUB 30,000.

### **1.5. Changing amounts of fines for breaches of compulsory bidding procedures**

Orders of administrative offences connected with a breach of the compulsory bidding procedure, or the sale of state or municipal property, will also be changed and set out in article 7.30.5 of the Code of Administrative Offences.

<b>Violation</b>	<b>Sanction</b>
<b>Violation of requirements for the procedure and/or deadline for placing information about bids being conducted</b>	A fine between RUB 30,000 and RUB 40,000 for a company's officers between RUB 40,000 and RUB 50,000 for individual entrepreneurs between RUB 50,000 and RUB 100,000 for legal entities
<b>Violation of the procedure for determining the form of conducting compulsory trades</b>	A fine between RUB 30,000 and RUB 40,000 for a company's officers between RUB 40,000 and RUB 50,000 for individual entrepreneurs between RUB 50,000 and RUB 100,000 for legal entities
<b>Violation of the procedure for providing documentation regarding compulsory bidding, clarifying such documentation, accepting applications to participate in compulsory bidding or determining the winner</b>	A fine between RUB 20,000 and RUB 30,000 for a company's officers between RUB 30,000 and RUB 40,000 for individual entrepreneurs between RUB 40,000 and RUB 50,000 for legal entities
<b>Violation of the deadlines for entering into agreements</b>	A fine between RUB 30,000 and RUB 40,000 for a company's officers between RUB 30,000 and RUB 50,000 for legal entities
<b>Amending by agreement of the parties or unilaterally the terms and conditions of a contract when it is concluded or performed, if such an amendment is prohibited under a federal law</b>	A fine between RUB 2,000 and RUB 3,000 for individuals between RUB 20,000 and RUB 30,000 for a company's officers between RUB 50,000 and RUB 300,000 for legal entities

## **Pepeliaev Group's comment**

We believe that these new developments are quite logical and are aimed at bringing the provisions of the Code of Administrative Offences in line with the current provisions of Russian legislation and at enforcing control over compliance with procurement legislation.

## **What to think about and what to do**

We recommend reading the text of the Law and taking account of its provisions when carrying out professional activities.

## **Help from your adviser**

Pepeliaev Group's lawyers have significant experience of providing legal support to clients in the field of antitrust regulation. This includes arranging and conducting state and municipal procurement for Russian and foreign companies.

We will be happy to provide any legal support to clients in their dealings with the antimonopoly service.

Moreover, our lawyers continually monitor changes in antitrust legislation and are ready to offer prompt advice on any legal aspects that arise in connection with the new provisions being adopted.

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