

(wording of the Republic of Tajikistan Laws No. 498 as of December 12, 1997, No. 746 as of May 14, 1999, No.15 as of May 12, 2001, No.23 as of February 28, 2004)

LAND CODE OF THE REPUBLIC OF TAJIKISTAN

The present Code regulates land relations and it is directed at the rational use and protection of land, reproduction of fertility of the soil, maintenance and improvement of the natural environment and for equal development of all forms of economic activity in Tajikistan.

Chapter 1. BASIC PROVISIONS

Article 1. Land Law

Land relations in the Republic of Tajikistan are regulated by the Constitution of the Republic of Tajikistan, the present Code and other acts of the Land laws issued on the basis of this Code.

Issues related to the ownership and use of mountains, forests and water resources, to use and protection of the flora and fauna, protection of the environment are regulated by the current legislation of the Republic of Tajikistan.

Article 2. Land ownership

Land in the Republic of Tajikistan is an exclusive ownership of the state. The state guarantees its effective use in the interests of its citizens. Demand of lands, which belonged to the ancestors, is not admitted.

Article 3. The common national land fund

In accordance with the purpose they serve, all national lands resources of the Republic of Tajikistan are divided into the following categories:

1. farming lands,
2. populated lands (cities, towns, settlements and villages),
3. land used for industrial, transport, communications, defense and other purposes,
4. conservation land, land of historic and cultural value, land used for health-improvement and recreation purposes,
5. lands of national wood reserves,
6. lands of national water reserves,
7. state land reserves.

The category of land is stated in the following documents:

- a) in the state land cadastre;
- b) in the land use register;
- c) in the decisions of executive bodies on land allotment;
- d) in the documents authorizing the rights of land use/tenure (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 4. Land-related issues that fall under the competence of the Madjlisi Oli of the Republic of Tajikistan

The following land-related issues lie within the competence of Madjlisi Oli:

- a) setting and redrawing of the boundaries of administrative and territorial units (region, district, town);
- b) designation of territories with special regime of land use; drawing and changing of their boundaries.

Article 5. Land related issues that fall under the competence (regulation) of the Government of Tajikistan

Tajikistan Government's terms of reference in the sphere of land relations cover;

- a) disposing of land (withdrawal and allotting) within the boundaries of the Republic of Tajikistan for the purposes of the state by agreement with local governments;
- b) development and implementation of state and inter-state programs on rational land use, raising fertility of soil, protection of land resources as well as other nature protection measures;
- c) coordination of work of local executive bodies on implementation of state programs on use and protection of lands;
- d) ensuring state budget financing of the measures on use and protection of land in the process of their development and submitting to Madjlisi Oli of the Republic of Tajikistan, state budget on financing measures on use and protection lands;
- e) setting the boundaries of especially protected natural territories under agreement with appropriate local governments;
- f) determination of the procedure for collecting the land tax and rental fees;
- g) general the system of land tenure, organization and maintenance of the state land cadastre and conducting land monitoring;
- h) approval of land tenure documentation which is connected with implementation of works of state significance (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 6. Competence of state bodies on land tenure of the Republic of Tajikistan in regulating land relations

The following shall be within the competence of the state land management bodies of the Republic of Tajikistan:

- a) conducting and implementing land tenure,
- b) realization of state land cadastre and land monitoring;
- c) state control over use and protection of land, giving instructions on eliminating exposed violations of the land tenure law;
- d) improvement of land resources control within the framework of the current

- legislations,
- e) elaboration of regulatory-legal acts on state control of land relations;
 - f) representation of the Government of the Republic of Tajikistan in international organizations in the established order;
 - g) target use of the funds earmarked for improvement of lands state;
 - h) elaboration and submission for approval in the established procedure the land tax rate, calculation of economic losses and penalties in case of violation of the land legislation;
 - i) state registration of the right to use land plots and issuance of land users' certificates in the established procedure, authorizing their right to land use;
 - j) suspension of any type of construction, mining mineral deposits and peat, object exploitation, carrying out forest irrigation engineering, geological survey, research and geodesic works and prohibition of land user activities if they violate land legislation;
 - k) submitting to the Government of the Republic of Tajikistan, local governments or courts proposals on abolition of the acts;
 - l) suspension of execution of the decisions on allocation of land plots contradictory to the land legislation of the Republic of Tajikistan until a decision is taken by appropriate bodies (higher executive power bodies, courts);
 - m) solution of land use disputes;
 - n) execution of other powers identified by the Government of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 7. Competence of local governments of Gorno-Badakhshan Autonomous Oblast (GBAO), regions, cities, and rayons

The following issues of land relations are under jurisdiction of local governments of the Gorno-Badakhshan Autonomous Oblast, regions, cities and rayons within their administrative boundaries in the sphere of regulating land-related issues:

- a) organization and realization of the system of land tenure, approval of land tenure documents dealing with implementation of works of regional importance and land under their jurisdiction, conducting state land cadastre and land monitoring (Law of the Republic of Tajikistan No.23 as of 28.02.04).
- b) allotment of land for agricultural production;
- c) allotment, withdrawal of land for non-agricultural needs (Law of the Republic of Tajikistan No.23 as of 28.02.04).
- d) protection of land users' rights
- e) termination of the right to use a land plot;
- f) state registration of the right to use land plots;
- g) state control over land use and land protection.

Article 8. Jurisdiction of Jamoats

The following issues of land relations regulation within rural settlements are under jurisdiction of the oblast jamoats:

- a) submission of proposals to the city and rayon local governments on allocation of land plots,
- b) allocation and withdrawal of land plots and individual small holdings allocated in the established order;
- c) establishment and approval of the land subsidiary tax within the norms specified in Article 71 of this Code;
- d) registration of the right for land use and land lease agreements;
- e) drafting of the state land cadastre and accounting register, as well as regulation of small holdings and individual part-time farms;
- f) control over use and protection of lands;
- g) approval of land tenure documents concerning works on lands under the jamoats jurisdiction (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Art. 8 (1) Competence of local governments located within the city administrative borders and local city authorities within the city administrative borders and local city authorities within the rayon administrative border.

Local governments' terms of reference in the sphere of land relations regulation in rayons (cities) which are within the administrative borders of cities (rayons) provide for:

- a) submission of proposals to the local authorities of cities (rayons) on allocation of land plots;
- b) submission of proposals to the local city/rayon authorities on ceasing of the land use rights;
- c) allocation of land plots in accordance with Article 26 of this Code;
- d) control over the use and protection of lands (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 9. Land categorizing and transference of land from one category to another

Lands of the categories mentioned in Article 3 of this Code and their transference to another category will be made in accordance with the order established by the Government of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04)..

Violation of the rules of transference from one land category to another established by this Code, other laws or normative acts is the reason for:

- a. acknowledgement of local governments' resolution in the sphere of land relations regulations invalid;
- b. refusal of giving the documents, certifying the right of land use, and registration of the right of land use.

Article 10. Land users

In the Republic of Tajikistan legal entities and natural persons can be land-users.

Legal entities and natural persons can be primary or secondary users of the land.

Primary land users are legal entities and physical persons who have the right for perpetual use of land, limited use of land or life-long inheritable tenure.

Secondary land users are legal entities and natural persons, who use land plots on leasehold agreement terms (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 11. Perpetual use of land

Land use shall be recognized perpetual when the terms of tenure have not been previously fixed.

Perpetual use of land shall be given to:

- a) state and cooperative agricultural enterprises;
- b) public and religious organizations (associations);
- c) charity funds and other foundations;
- d) industrial, transport and other non-agricultural, cooperative, public enterprises, institutions, organizations;
- e) for defense purposes;
- f) joint ventures, international associations and organizations with the participation of foreign legal entities;
- g) additional land plots for personal subsidiary farms to the citizens (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 12. Life-long inheritable use

Plots of land for life-long inheritable use are assigned to physical persons or collectives, to citizens for organizing dehkan (individual) farms or other traditional crafts as well as small holdings (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Plots of land assigned on the right of life-long inheritable use are subject to obligatory re-registration in case of opening of inheritance.

Article 13. Fixed-term land use

Plots of land can be assigned for fixed-term use to legal persons and physical persons (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Fixed-term land use can be short-term (up to three years) and long-term (from three to ten years).

Article 14. Land lease

Primary land users can lease out land plots under the contract.

Under the lease, a plot is leased out to the new tenant without any changes in the purpose of the plot.

Land plots shall be assigned for lease for a period of up to 20 years. Land use relations on land plot lease shall be implemented in accordance with the legislation of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 15. State registration of the right to land use

State registration of land use rights shall be performed by the state body in charge of land tenure of the Republic of Tajikistan and by its local bodies.

Official registration and issue of documents confirming the right of land use shall be implemented in accordance with the Article 17 of the present Code.

Land use rights of physical persons and legal entities shall arise from the moment of receipt of the land use certificates, which have passed state registration.

The order of state land use right registration, the form of registration land book and form of standard documents required for establishing and certifying the land use right is determined by the Government of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 16. Grounds for refusal of the state registration the right to land use

Grounds for refusal of the state registration the land use right are as follows:

- a) lack of appropriate executive authorities bodies' resolution on land assignment;
- b) availability of documents, testifying disputes on the given land plot possession, in the body responsible for state registration;
- c) changing the pupose the plot is intended for in defiance of the regulations stipulated in Article 9 of the present Code.

Article 17. Determination of the land use right

This is to certify the rights of land tenure:

- a) The right of perpetual use of land, limited use of land and lifelong inheritable plot land use – by State certificate on land use right (Law of the Republic of Tajikistan No.746 as of 14.05.1999);
 - the size of land share shall be determined in the Certificate of land share;
 - citizens having small holdings shall have the right to receive land use certificate through the Republic of Tajikistan state body on land tenure and its local bodies (Law of the Republic of Tajikistan No. 23 as of February 28, 2004);
- b) the right of land plots leasing – by a lease. Information contained in the documents on land tenure should correspond to use information which entered in the land use register.

Documents indicated in the point “a” in the first part of this Article are subject to state registration in the procedure specified in Article 15 of the present Code.

Leases are subject only to State registration in the Land Use Register.

Article 18. Inadmissibility of the land use prior to an official registration of the land use right

It is prohibited to use the plot of land before a competent land registry office has staked off the boundaries of the plot and before the right of land use has been issued by the competent authority.

Chapter 2. RIGHTS AND LIABILITIES OF LAND USERS

Article 19. Rights of primary land users

Primary land users have the right to:

- managing the land plot on their own;
- ownership on the produced agricultural production and proceeds from its realization;
- using generally utilized natural resources: peat, forests, water sources as well as exploiting other useful land properties for the needs of household in the established procedure;
- construction of dwellings, production buildings, buildings for improvement living conditions and other structures with due regard for the requirement of the present Code;
- owning crops and agricultural plantation;
- lease out the plot;
- indemnification for losses stipulated in Article 41 of the present Code;
- waiving voluntarily of land plot.

Article 20. Rights of secondary land users

Secondary land users are entitled:

- to use the land according to the conditions of assignment;
- to use in the established order the generally used natural resources, peat, forest lands, water resources which are situated on the plot as well as exploit the useful properties of the land;
- to be indemnified at early suspension of the lease agreement for the cost of land improvements made at their expense (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 21. Obligations of land users

Land tenants are liable to:

- to use the land in accordance with its purpose and conditions of land

- assignment;
- utilize efficiently the assigned plot, applying land-protective technologies that will not deteriorate the ecological and environmental situation in the area;
 - implement complex of measures provided for in Article 51 and Article 52 of the present Code to ensure protection of land;
 - pay land tax or lease payment on time;
 - not to violate the rights of other land users;
 - furnish the appropriate executive bodies with required information, established by Republic of Tajikistan Law, on land condition and land utilization on time (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Chapter 3. ASSIGNMENT OF LAND

Article 22. Land assignment procedure

Land assignments to legal entities and physical persons are implemented on the basis of the resolutions of the relevant executive bodies in accordance with Article 26 of the present Code.

The Government of the Republic of Tajikistan establishes procedures on land assignment.

Article 23. Assignment of land plots for agricultural needs

Lands suitable for agricultural needs in the first line are assigned to agricultural enterprises, dehqan farms and industrial organizations and institutions for agricultural production (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Fitness of land plots for agricultural needs is determined by the State Body on Land Tenure of Tajikistan and its local bodies on the basis of soil studies, geobotanical, hydro-meliorate, agro-economic and other surveys (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 24. Assignment of land plots for non-agricultural needs

Lands which are not fit for agricultural production or lower quality lands with corresponding cadastral evaluation and which does not exceed average rayon level are assigned for construction of industrial enterprises, housing objects, railway, automobile, water and air transport, electric transmission lines, communications and main pipe lines and for other non-agricultural needs.

Lands with mineral resources deposits beddings are assigned for construction purposes in agreement with the authorities in charge of mountain supervision.

Individual and legal entities implementing geological, research, geodesic and other temporary works based on the license of the Government of the Republic of Tajikistan shall use land plots for such works with consent of land users and local executive authorities without withdrawal the land plots from users. Losses incurred as

the result of temporary use of land plots for implementation of the above mentioned works shall be compensated in accordance with the present Code (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 25. Assignment (allocation) of land to foreign citizens and foreign legal entities

Foreign citizens and foreign legal entities can be given land plots for a period to 50 years (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Lands under special protection are not assigned to foreign citizens and foreign entities.

Article 26. The Right of local authorities in allocation of land plots

Local authorities of rayons (cities), upon agreement with the state land tenure control bodies of the Republic of Tajikistan shall allocate land plots for perpetual, limited use of land and lease from land reserve and lands of agricultural trend for agricultural needs, and for non-agricultural needs, except for lands specified in Article 29 of the present Code, in the size of up to 10 hectares from the forest lands, except for the first category forest lands and water fund lands for agricultural needs in the size of up to 10 hectares and up to 5 hectares for non-agricultural needs.

Local authorities of the Gorno-Badakhshan Autonomous Oblast shall be given lands from the land reserve and agricultural lands, except for the lands indicated in Article 29 of the present Code, in the size of up to 20 hectares for perpetual and limited term use and for lease, upon agreement with the local authorities of rayons (cities) and state bodies of land tenure system of the Republic of Tajikistan.

The Government of the Republic of Tajikistan shall allocate land plot of all land categories regardless of the size for perpetual and limited term use, upon agreement with local authorities of rayons, cities and oblasts, and state land tenure bodies of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 27. Transfer of the right to use land plot and its allocation.

When the property right to buildings, constructions and structures is transferred, the right to use land plots on which they are located is transferred to another person.

At the same time, land plots assigned earlier in the established order are not subject to assignment and the State Body on Land Tenure of the Republic of Tajikistan and its local bodies assign the land plots to those who received the land use right.

In case of changing in land use purposes, land use certificates shall be reissued and registered in the order established by the State Body on Land Tenure of the Republic of Tajikistan and its local agencies/branches.

In case of incomplete use of land plots, where these constructions and installations are located, the right to use the unused plot shall be cancelled.

When the right of the property on housing is passed to another person simultaneously the right to use small holding is also passed to him (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 28. Establishment and determination of the land plot borders in the field

When allotting a land plot, works on determination and establishment of its boundaries are executed by the State Body on Land Tenure of the Republic of Tajikistan in accordance with the Law of the Republic of Tajikistan “On the System of Land Tenure” (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 29. Peculiarities of sequestration of land plots for non-agricultural purposes

Sequestration of valuable high-productive lands (cropland, lap-land, perennial plantations) pastures, haymaking and lands occupied by natural, cultural, historical and cultural and health objects for non-agricultural purposes shall not be allowed. Withdrawal of these lands is sanctioned by the Government of the Republic of Tajikistan in special cases, such as laying water pipes and other mains, construction of settlement, for industrial objects and other very important state objects.

Article 30. Procedure of withdrawal/confiscation of land plots for non-agricultural purposes/needs.

Individuals and legal entities interested in assignment/ allocation of a land plot for construction objects shall apply to the appropriate local authorities.

The relevant local authorities shall take a decision on the conformity or inconformity of an object’s location under the proposal of the State Body on Land Tenure of the Republic of Tajikistan and its local bodies taking into account the social, economic, ecological, city planning and other conditions, and forecast of use of the relevant land and its bowels. The decision shall be a basis for selection of a land plot by the State Body on Land Tenure of the Republic of Tajikistan and its local bodies in the established order; for identification of the borders of land plots in the field and for official registration of the act on preliminary compliance of the object location.

The relevant local authority takes a decision on approval of the document on preliminary compliance of the object location or on rejection of the object location.

In case of refusal on allocation of land plots physical persons and legal entities shall be informed in writing within 10 days from the date of refusal.

Refusal of allocation of a land plot can be appealed against by individuals and legal entities in the court (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 31. Terms of Allocation of Land for Non-Agricultural needs

Upon presentation of the State Body of Land Tenure of the Republic of Tajikistan and its local bodies in the established order the local authorities consider regulating documents on allocation of land plots and, within one month, take a decision on the terms of allocation of land plots to land users interested in construction of the objects.

Terms of allocating land plots to new land users for non-agricultural needs must envisage compensation of all losses related to confiscation of land plots from former land users, as well as compensation of losses in agricultural production.

Financing of construction is made upon submission of land use right certificates to financing bodies (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Chapter 4. PAYMENT FOR LAND USE

Article 32. Payment for land use

In the Republic of Tajikistan payment is due for use of land. Payment is collected annually in the form of land tax, rent payment in the established period (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 33. Rates, procedure for taxation, and rental payment for land

Land tax and its rates shall be determined by the Tax Code of the Republic of Tajikistan (Law of the Republic of Tajikistan No.15 as of 12.05.01).

The lease rate of agricultural land is determined according to the location and the quality of soil with regards to cadastre valuation (Law of the Republic of Tajikistan No.15 as of 12.05.01).

The rates of payment for use of other types of agricultural lands shall be determined according to the location, character of use, ecological and socio-economic peculiarities.

Assessment of land in the Republic of Tajikistan for the purpose of fixation of the standard price in order to establish objective taxation and rent payment shall be made in accordance with the Law of the Republic of Tajikistan “On Estimation of Land” (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 34. Receipts of payments for land

Land tax shall be distributed in accordance with the Tax Code of the Republic of Tajikistan (Law of the Republic of Tajikistan No.15 as of 12.05.01).

The lease payment shall be paid to the primary land user in the order established in the lease agreement (Law of the Republic of Tajikistan No.498 as of 12.12.97).

Article 35. Privileges in collecting the land tax

Questions related to determination of the privileges in collecting the land tax shall be regulated by the Tax Code of the Republic of Tajikistan (Law of the Republic of Tajikistan No.15 as of 12.05.01).

Article 36. Utilization of payments for land

Funds paid for land, allocated according to the legislation of the Republic of Tajikistan, shall be used for financing the measures for land protection and increasing soil fertility, cultivation of virgin lands/soils, execution of work for regulation of lands (including determination and restoration of plots boundaries on the ground, mapping out plans and drawings, technical equipment of the state services on land regulation), development of the state land cadastre, conducting land monitoring, and state control over utilization and protection of lands (Law of the Republic of Tajikistan No. 15 as of 12.05.01).

Chapter 5. TERMINATION OF RIGHT OF LAND USE

Article 37. Grounds for termination of the right of land use

The right to use the whole plot of land or its part shall be terminated in the following cases:

- a) in case of refusal from the land plot;
- b) if land users discontinue their activities;
- c) irrational use of the plot;
- d) if land is used contrary to the purposes stated in the documents confirming right of land use;
- e) using technologies leading to reduction of fertility of soil, its chemical or radioactive pollution, deterioration of ecological situation;
- f) expiry of the term of assignment of the land plot;
- g) systematical default in payment of the land tax within the time limits established by the law of the Republic of Tajikistan;
- h) non-use of the land plot assigned for agricultural production for one year and for two years for non- agricultural purposes;
- i) sequestering of land stipulated by the present Code;
- j) regular violation of the land legislation (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 38. Grounds for termination of the agreement on land lease

Agreement on land lease can be terminated on the following grounds:

- a) on mutual will of the parties;
- b) in case of expiration of land lease agreement;
- c) in case of death of leaseholder of the land plot and absence of his heirs;

- d) reorganization and liquidation of a primary land user;
- e) upon violation of conditions of a land lease agreement, including systematic non-payment of rental fee;
- f) irrational use of a land plot;
- g) use of land contrary to the purpose;
- h) use of technologies that can damage fertility of soil, lead to its chemical or radioactive pollution, deteriorate ecological situation;
- i) non-usage of the land plot for a year;
- j) sequestration of lands in cases stipulated by this Code.

Article 39. Termination of the land use right

Decision on termination of the land use right, irrespective of the size and category of a land plot in question - is taken by rayon/town executive body upon recommendation of the State Body on Land Tenure of the Republic of Tajikistan and its local bodies on expediency of further use of this land (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Land plots subject to sequestrate shall be included in the special land reserve of rayon/town and shall be returned to former land users (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 40. Procedures for forced termination of the land use right

Forced termination of the land use right on the lands stipulated in the items 'c', 'd', 'e', f, 'g', 'h' 'i' of Article 37 and items 'b', 'd', 'c', 'f', 'g', 'h', 'i' of Article 38 of this Code shall be carried out in the following order:

a) If any violation have been revealed, legal entities and physical persons shall pay a penalty; the penalty shall be imposed by specially authorized state agencies that exercise control over utilization and protection of land (Article 55 of this Code) within their jurisdiction and in accordance with legislation of the Republic of Tajikistan;

b) Along with imposing penalties by the bodies indicated in the paragraph (a) of this article, prescription to eliminate committed violations is issued (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

If violations have not been rectified, specially authorized state agencies that exercise control over utilization and protection of land shall submit a proposal to the rayon/town executive body that this tenant's rights should be terminated.

If the landholder disagreed with termination of his right to use a land plot, he/her has the right to appeal to the Court. In this case the fact of termination of tenure shall not be officially registered until the court takes its decision.

Chapter 6. COMPENSATION FOR DAMAGES CAUSED TO LAND USERS AND FOR LOSSES OF AGRICULTURAL PRODUCTION AND FORESTRY (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 41. Compensation for damages caused to land users

Fully reimbursed shall be losses, including loss of profit, caused by:

- a) sequestrate of land for non-agricultural purposes;
- b) restriction of land users' rights;
- c) deterioration of land quality as the result of activities of other land users.

Losses are indemnified at the expense of legal entities and physical persons who benefit from sequestrate of land or from limitations on tenants' rights as well as at the expense of those juridical and physical persons whose activities made it necessary to establish protective and sanitary zones and involves limitations on user's rights or deterioration of his land (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 42. Indemnification of losses of agricultural production and forestry (Law of the Republic of Tajikistan No. 23 as of February 28, 2004)

Losses in agricultural production and forestry are indemnified by

- a) physical persons and legal entities who are granted farming lands for non-agricultural purposes (Law of the Republic of Tajikistan No. 23 as of February 28, 2004);
- b) legal entities for whom protective and sanitary zones are established with the exception of cases provided for in Articles 89 and 90 of the present Code.

Losses of agricultural products and forestry are indemnified within one month after decision of local authorities on withdrawal of land plots (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 43. Calculation of damages to land users and agricultural production and forestry (Law of the Republic of Tajikistan No. 23 as of February 28, 2004)

When calculating the amount of compensation for damage caused to land users, actual prices on equipment and materials, as well as prices on construction-assembling and other works existing either at the moment of confiscation of a land plot and drafting of the report shall be applied.

When calculating losses of agricultural production and forestry, standard costs of cultivation of virgin lands and improvement of existing lands with the purpose to produce agricultural products in the volume not less than one got from sequestered lands or earlier until the decreasing of their quality shall be applied.

Disputes about the amount of compensation for damages caused and losses of agricultural production and forestry shall be settled in court.

The procedure for compensation for damages caused and losses of agricultural production and forestry shall be established by the Government of the Republic of Tajikistan.

Article 44. Utilization of indemnified means received from payment land users' losses and damages caused to agricultural production and forestry (Law of the Republic of Tajikistan No. 23 as of February 28, 2004)

Sums of money paid to cover the land-users' losses shall be transferred to the bank account of land users.

Sums of money paid to reimburse damages caused to agricultural production and forestry shall be transferred to a special account of the national budget, and shall be spent in accordance with Article 36 of the present Code (Law of the Republic of Tajikistan No.498 as of 12.12.97).

Article 45. Exemption from compensation for losses of agricultural production and forestry

Damages caused to agricultural production and forestry shall not be reimbursed in withdrawal of a plot of land for the following purposes:

- for small holdings (Law of the Republic of Tajikistan No.23 as of 28.02.04);
- for cemeteries;
- for water projects and land-improvement objects in case of development of virgin land or reconstruction of irrigation and collector-drainage;
- for schools, boarding schools, children's home and health institutions;
- in other cases established by the Government of the Republic of Tajikistan.

Chapter 7. PROTECTION OF THE LAND RIGHTS AND SETTLEMENT OF LAND DISPUTES

Article 46. Ways of protection of the land rights

Protection of the land rights is exercised by the means stipulated by civil legislation, the present Code and other laws including by means of:

- a) acknowledgement of the land right;
- b) putting a ban on interference of the state or other land users into activities of a certain land user, with the exception of violation of the land legislation by land users;
- c) determination in the law of an exhaustive list of the cases of termination or restriction of land use rights by the state;
- d) determination in the law of land rights protection on guarantees in case of their termination or restriction.

Article 47. Settlement of land disputes

Land disputes emerging from the land relations shall be examined by the State Body on Land Tenure of the Republic of Tajikistan and its local bodies according to the requirements of the present Code. State Body on Land Tenure of

the Republic of Tajikistan and its local bodies shall be entitled to submit materials to investigation agencies for examination in case of failure to perform its resolution. (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Physical persons and legal entities who disagree with the resolution of the land committee can appeal against it in the court (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 48. User's rights guarantee

Confiscation of land plots from natural persons for state and public needs can be made after:

- a) having been assigned of another equivalent land plot (if desired);
- b) having been constructed on a new place of housing, industrial and other structures equivalent in their purpose instead of plots sequestrated, in the established order, by enterprises, institutions and organizations for which the land plot was assigned;
- c) having paid full compensation for all other losses, including loss of profit, according to Article 41 and Article 42 of this Code.

Assigned plots of land may be sequestrated from any legal entities irrespective of organizational and legal form for the state and public needs on condition that:

- a) instead of sequestrated housing, industrial, irrigation or other constructions, other equivalent constructions are built (if desired);
- b) all other losses, including loss of profit, are fully reimbursed, according to Article 41 and Article 42 of this Code.

Article 49. Acknowledgement of the land rights

The land rights shall be acknowledged by the local Land Committee through taking a decision establishing the land rights.

The decision establishing the land rights shall be a legal ground for issuance by the State Body on Land Tenure of all necessary documents confirming the land rights (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 50. Restoration of the violated land rights

The violated right shall be subject to restoration:

- a) if the local land committee declares invalid the act which is not in compliance with the legislation and infringes the land rights and interests of the land users protected by the law;
- b) in case of unauthorized occupation of the land plot;
- c) in other cases provided by the Law and other legal and normative acts of the Republic of Tajikistan.

Chapter 8. LAND PROTECTION

Article 51. Goals and objective of land protection

Protection of land includes a system of legal, economic and other measures, aimed at protection and rational use of land, conservation of soil, and prevention of land degradation and barring of groundless withdrawal of the most valuable lands from agricultural turnover, as well as restoration and improvement and raising soil fertility.

Land protection is exercised on the basis of complex approach to arable lands as complicated natural phenomena (ecosystems) with due regard for their zonal and regional peculiarities and puts the following aims:

- to prevent degradation and destruction of land and other unfavorable consequences of economic activity;
- to ensure improvement and restoration of lands affected by degradation and destruction processes;
- to create a mechanism of land registration and land ecological control and;
- to create mechanism of registration and checking ecological state of lands and provide land users with ecological normative, approved in the order established by the Government of the Republic of Tajikistan.

Article 52. Content and procedure for land protection

Land users shall provide for:

- rational organization of territory;
- restoration of soil, increase of soil fertility and improvement of other soil characteristics;
- protection of soil against water and wind erosion, mud flows, hoods, swamping, compaction, making soil greasy, pollution with waste products, chemical and radioactive materials and against other destructive processes;
- protection against overgrowing of farming lands with coppice and against other processes that deteriorate cultural and technical state of land;
- re-cultivation of destroyed lands, restoration of soil fertility and of other useful properties of land, well-timed involvement of lands into agricultural turnover;
- removal, utilization and conservation of the fertile soil layer during soil layer during soil restoration works.

If it is impossible within a short period of time to restore soil fertility of degraded farming lands polluted with chemical and radioactive materials, above permissible concentration, these lands are to be conserved in accordance with procedures established by the Government of the Republic of Tajikistan.

Article 53. Ecological requirements for locating designing, construction and launching of projects, buildings and structures that influence on soil state

It is necessary to implement land conservation measure and to meet ecological, sanitary, hygienic and other special requirements (norms, rules, standards) when locating, projecting, building and putting into operation new or reconstructed projects, building structures or when introducing new technologies which could harm land.

Putting into operation the objects and applying new technologies without measures of land protection from degradation or violations is prohibited.

The location of objects which might influence on the condition of soil shall be coordinated with rayon land committee, bodies on environmental architecture protection and other agencies in the order established by the Government of the Republic of Tajikistan.

Article 54, Economic encouragement of rational use of land and land protection

Economic stimulation of rational use and protection of land is aimed at increasing land users interest in preservation and reproduction of land as well as at defense against negative after reflects of industrial activity and it includes:

- a) appropriation of funds from Republican and local budgets as well as the use of sum, coming as penalties to special accounts for restoration of lands, which are not destroyed by land-users, and for conducting agro-technical, forest melioration and other soil preservation measures;
- b) exemption from payment for plots of land, being in development or improvement stage for a period of time foreseen in the project of works implementation;
- c) granting preferential loans for land-improvement activities aimed at better land utilization;
- d) partial budgetary indemnification for reduce in landholders' profits caused by temporary conservation of plots - in case the landholders bears no guilt for the damage caused to the land;
- e) incentives for improvement of land quality, increase of soil fertility and productivity of state forest fund, production of ecologically pure agricultural products.

Chapter 9. STATE CONTROL OVER OBSERVANCE OF THE LEGISLATION ON LAND UTILIZATION AND LAND PROTECTION

Article 55. Bodies implementing state control over land utilization and land protection

State control over land utilization and land protection is implemented by the State body of the Republic of Tajikistan and its local bodies and the Ministry of Nature Protection of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Procedure of control over compliance with the Land Law, verification of land utilization and land protection and distribution of functions between various state control agencies and their provisions are determined established by the Government of the Republic of Tajikistan.

Article 56. Tasks of the state bodies exercising control over observation of the land law,, land utilization and land protection

Task set before the state bodies monitoring observation of the land law, land utilization and land protection include enforcement of execution of land legislation, observance of special requirements (norms, rules, standards), ensuring implementation of rational land use and land protection measures by all landholders, state bodies, juridical persons (irrespective of their subordination and forms of property), by government officials and citizens.

Chapter 10. SYSTEM OF LAND TENURE, LAND CADASTRE AND LAND MONITORING

Article 57. Purpose of system of land tenure

The system of land tenure includes a system of measures/actions, providing territorial regulation of land relations, study, planning, land tenure and protection arrangements, creation of new and regulation of existing land tenure, land reserves, administrative-territorial units and other the system of land tenure objects with mark outs, development of the territory of agricultural enterprises and improvement of natural landscapes.

Regulation of relations in the system of land tenure is implemented by the Law of the Republic of Tajikistan “On the System of land tenure” (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 58. Deleted (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 59. Deleted (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 60. Deleted (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 61. Contents and purpose of state land cadastre

State land cadastre is indissoluble unity of the automated system of land cadastre information and land-cadastre process.

The purpose of the state land cadastre is to receive reliable information about natural, legal and economic situation of the unified state fund of land reserves.

State land cadastre contains information about land that can be useful for rational land utilization and protection for regulation of land relations, grounds for land pricing, the system of land tenure, and evaluation of economic activities. State land cadastre is one of control functions over united national land reserve of the Republic.

State land cadastre is kept by the State system of land tenure of the Republic of Tajikistan and its local bodies according to a unified system equally throughout the Republic and out of the proceeds from land taxes and other land-related payments (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Methods of keeping state land cadastre are established by the Government of

the Republic of Tajikistan. Authorities and Government officials of state land cadastre are obliged to safeguard the authenticity of all information included in cadastre documents and place them at the disposal of all interested juridical persons.

Article 62 Land- cadastre process

The aim of the land-cadastre process is to renew land cadastre information on periodical or continuous basis. Land-cadastre process includes:

- state registration of land tenure;
- quantitative and qualitative land statistics;
- oil assessment;
- economic lands evaluation.

Land-cadastre process is provided for by air-cosmic topographic, land surveying, cartographic, soil-examining, geo-botanical, meliorate and other forms of survey

Article 63. Land monitoring

Land monitoring is systematic control (in the form of surveying, research, and examination) over condition of lands, identification of changes and their evaluation.

Objects of land monitoring are:

- a) timely identification of changes in land state, their evaluation, forecasting, working out recommendations for their prevention or elimination of negative aftereffects;
- b) information supports for keeping state land cadastre process, rational land use, rational land tenure, control over land utilization and land protection and other functions within the state management of land-resources of the Republic of Tajikistan.

Chapter XI. FARMING LANDS

Article 64. Concept and composition of farming lands

All lands used for needs of agriculture are regarded as farming lands. Agricultural lands comprise arable lands, perennials, lay lands, hayfields and pastures, as well as lands used for (internal)inter-farm roads, communications, water reservoirs, hydro-technical facilities and constructions used for production purposes, storage and primary (initial) processing of agricultural products (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Deleted (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 65. Assignment of farming lands

Fanning lands are assigned:

- to legal entities and individuals for agricultural production purposes;
- to legal entities and individuals for fruit and vegetable growing;
- to jamoats for allocation of subsidiary land plots and additional land for arrangement of personal subsidiary farms of citizens;
- to agricultural scientific research, organizations, agricultural educational institutions, other agricultural enterprises, and organizations, to vocational and general schools for research and educational purposes, extension of advanced agricultural experience and for farming;
- to non-agricultural enterprises, organizations and agencies, to religious organizations - for subsidiary farming.

Article 66. Allocation of Land Plots to Dehkan farms

Land plots for the purpose of creating dehkan farms shall be allocated to the citizens of the Republic of Tajikistan for life-long inheritable use in the order established by the Law of the Republic of Tajikistan “On Dehkan Farms” (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 67. Deleted (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 68. Deleted (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 69. Deleted (Law of the Republic of Tajikistan No.23 as of 28.02.04)

Article 70. Transfer of the Land Use Right to other Persons

Citizens leading dehkan farms can transfer the right to use a land plot to other persons. When transferred to other persons, the land use right shall be reregistered in accordance with the legislation of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 71. Allocation of land for subsidiary farms

Every family is assigned/allocated a subsidiary land plot in the size of up to 0,12 hectares of irrigated land and up to 0,25 hectares of dry land; in virgin and mountain areas up to 0,15 hectares of irrigated and up to 0,40 hectares of dry land, including the area under construction and yards.

Exact size of subsidiary plots within the indicated norms is identified with regard to the land reserve of every land user.

The Government of the Republic of Tajikistan establishes procedure to allocate subsidiary land plots.

Article 71.1 Allocation of Land Plots to new families

Separation of citizens’ families is not the reason for division of subsidiary

plots.

In some cases, when the size of subsidiary plots exceeds existing norms, they can be divided between newly created families or other families.

Newly created families, if legally registered in the jamoat, is provided with a land plot on a common basis (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 71.2 Allocation of Land for Personal Subsidiary Plots

Land plots is allocated to citizens for personal subsidiary plots by consent of the initial land users in accordance with the standard legal documents of the Republic of Tajikistan.

Article 71.3. Allocation of Land Plots to Citizens for Pasturage of Livestock and Haymaking

Land plots for pasturage of livestock and haymaking are allocated to the citizens, having livestock, on submission of jamoats from reserve lands, forestry reserve, lands of settlements as well as from the lands of agricultural farms and other organizations, which have agricultural lands, in the following order:

- a) from agricultural lands, as well as from lands of organizations, which have agricultural lands, upon decision of the general meeting of these farms and organizations;
- b) from the state land reserve – upon decision of chairmen of rayons (cities);
- c) from the land of the state forest reserve – upon decision of the chairmen of rayons (cities) on agreement with forestry bodies;

The land tax on such lands is paid in accordance with the Tax Code of the Republic of Tajikistan (Law of the Republic of Tajikistan No.23 as of 28.02.04).

Article 72. Assignment of land plots for collective vegetable garden and horticulture

Land plots for collective vegetable garden and horticulture are assigned to individuals and legal entities out of the lands, which previously have not been used in agricultural manufacture. Plots of land are assigned to individuals and legal entities for collective horticulture at the rate of 0,06 hectares per member of the collective. Procedure for assignment of plots for collective horticulture is established by the Government of the Republic of Tajikistan (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 73. Conditions/Terms of changing of plot boundaries and plot size (or size of land use)

Changing of boundaries and size of the land used by agricultural enterprises,

institutions and organizations when consolidating and downsizing farms is implemented with regard to location, population number of population, number of employees, shareholders on the basis of the decision of the general meeting or the authorized meeting in the order established by the land legislation of the Republic of Tajikistan, and the right to use land shall be subject to re-registration (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 74. Location of objects of inter-farm construction

Objects of inter-farm construction of the agricultural enterprises are placed according to the authorized circuit of the land tenure regulation, projects of inter-farm land tenure regulation or projects of lay-out and building of the rural settlements.

Location of objects for inter-farm construction on the lands specified in Article 29 of the present Code, is allowed only according to the decision of the Government of the Republic of Tajikistan.

Procedure of granting land plots for inter-farm construction is established by the Government of the Republic of Tajikistan.

Article 75. Procedures and terms of allotment of lands for agricultural purposes

Land for agricultural purposes are given in conformity with inter-farm land tenure regulation to the natural persons and legal entities with consent of land users and according to the present Code.

Granting the lands of agricultural purpose to agricultural enterprises is carried out within suitable for economic activity boundaries. Open-field system, wedging and other defects of their land tenure are not admitted.

Open-field system, wedging and other defects of land tenure of the agricultural enterprises are eliminated by mutual agreement between affected agricultural enterprises by the State systems of Land tenure of the Republic of Tajikistan and its local bodies in conformity with inter-farm land tenure regulation in accordance with the Law of the Republic of Tajikistan “On the System of Land Tenure” (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

The land plots for conducting village part-time farm are given to non-agricultural enterprises, institutions and organizations, as well as religious organizations with the purpose of manufacture of agricultural products for supply of workers and employees of specified enterprises, institutions and organizations, supply of restaurants, schools, children's institutions, hospitals, houses for aged and invalids, sanatoria, rest homes.

Chapter XII. LAND OF CITIES AND SETTLEMENTS

Article 76. Lands of cities/ towns

All lands within the limits of town administrative boundaries shall be considered town lands.

Town lands are in the jurisdiction of local authorities.

Art. 76.1. Administrative Boundaries of Towns

Administrative boundaries of towns shall be boundaries of town lands separating them from other land categories.

Administrative boundaries of towns are established and changed by Madjlisi Milli of the Madjlisi Oli of the Republic of Tajikistan.

Inclusion of land plots in administrative boundaries of towns does not entail termination of the land use right of former users. Withdrawal/confiscation of these plots is implemented in accordance with the town planning in the order established by the legislation of the Republic of Tajikistan (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 77. Composition of Town Lands

Town lands comprise:

- a) lands of urban buildings;
- b) general use lands;
- c) agricultural lands;
- d) lands with forests and shrubs;
- e) industrial, transport, communication, main pipeline and other lands;
- f) lands under water reservoirs and water areas (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.1. Use of Town Lands

Lands of the cities are used according to over-all cities plans, projects of detailed planning and building as well as plans of land-economic arrangement of cities territories (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.2. Allocation of Land Plots in Towns

Land plots in towns are allocated for fixed term and permanent use and lease upon the decision of chairmen of towns in accordance with Article 26 of the Code (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.3. Withdrawal/confiscation of Land plots in towns

Withdrawal of land plots in towns is implemented by consent of initial land users based on the decision of the town chairmen.

Withdrawal of valuable agricultural lands (arable lands, perennials, pastures,

irrigated and dry lands), experimental fields of scientific-research institutions and educational establishments used for non-agricultural needs, as well as forests with special regime of forest utilization (recreation and entertainment parks, plantings, anti-erosion forests), not related to forestry, in case the use purpose changes, is implemented only upon the decision of the Government of the Republic of Tajikistan (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.4. Lands under urban constructions

Lands under urban construction comprise lands under and allocated for construction of buildings and structures (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.5. Allocation of land plots for construction

Individuals and legal entities are allocated land plots for industrial, residential, cultural-domestic and other types of capital construction.

The size of land plots and terms of use for indicated purposes are identified in accordance with the approved in the established order norms and design planning documents (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.6. Lands for general use

General use lands shall comprise lands under roads, pass-ways, recreation parks, boulevards, squares, cultural-domestic lands, graveyards and so on (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 77.7. Allocation of general use lands for construction

Land plots from the general reserves are allocated to individuals and legal entities for limited and perpetual use for construction of light buildings and installations (trade booths, kiosks, advertisements, etc.) without damage for general use based on the decision of the town chairman (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.8. Lands for agricultural use in towns

Agricultural lands are lands of agricultural enterprises and organizations located within the administrative boundaries of towns.

Allocation and withdrawal of agricultural lands is implemented in accordance with Article 26 and Article 29 of this Code (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.9. Lands under urban forests and shrubs

Lands used to improve environment, satisfying cultural aesthetic needs of population, protection of territory from water and wind erosion are referred to lands under forests and shrubs (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.10. Lands under industry, transport, communication, main pipelines and other

Lands used for motor roads, rail roads, water and air transport, pipelines, transmission lines, communication, industrial lands for processing minerals and others are considered lands under industry, transport, communication, main pipelines and other.

Permission to construct buildings and installations, as well as conduct development works on these lands shall be given upon agreement with land users based on the decision of the chairman of the town.

Allocation of land plots to individuals and legal entities for mining operations and resource development is implemented in the established order after arrangement of necessary documents (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.11. Land under water reservoirs and water areas

Land under water reservoirs, lakes, rivers, canals, swamps and hydro-technical installations are considered lands under water reservoirs and water areas (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.12. Land of town type settlements

All lands within the limits of a settlement are considered lands within the settlement border.

Lands of the town type settlements are in the jurisdiction of local authorities of the town type settlements. Provisions of Articles 76-80 cover the town type settlements (Law of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 77.13. Lands of rural settlements

All lands within the limits of the rural settlements are considered lands of these settlements.

Lands of rural settlements are in the jurisdiction of the local authorities.

Lands of rural settlements are used for personal subsidiary farms, construction of houses, cultural, residential, industrial facilities and other purposes in accordance with construction projects and economic plan.

Territories of rural settlements are established and changed upon submission of institution of local government to appropriate local authorities within their authority (Law

of the Republic of Tajikistan No. 23 as of 28.02.04).

Article 78. Lands of natural and green zones

Lands beyond the boundaries of a city that serve as territorial reserve for the city growing and a place for location and construction of facilities necessary for improvement and normal functioning of municipal services; lands occupied by forests, wood-parks and other shade-tree plantations, performing protective and sanitary-hygienic functions and serving as recreation places are regarded as natural and green zones of a city.

Article 79. Procedure for establishing natural and green zones

Natural and green zones, their size, boundaries and procedure of use are established by the decision of the Government of the Republic of Tajikistan.

Inclusion of the land plots into natural or green zones does not entail their withdrawal; landholders retain their right to these plots.

Article 80. Protection of lands of natural and green zones lands

Lands in natural and green zones are subject to the special protection. Construction of buildings and structures with other than protective functions, sanitary and hygienic and purposes other than recreation of the population is prohibited.

Chapter XIII] LANDS FOR INDUSTRIAL, TRANSPORT, COMMUNICATIONS, DEFENSE AND OTHER PURPOSES

Article 81. industrial lands

Lands assigned for industrial enterprises, institutions and organizations for construction, industrial manufacture, as well as for economic and other purposes are considered industrial land.

Article 82. Land for extraction and exploitation of minerals

Land plots allocated for the use of individuals and legal entities for mining and development of resources in accordance with the legislation of the Republic of Tajikistan are considered lands for mining operations and resources development (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Individual and legal entities conducting mineral-extraction and exploitation works should not admit infringement of the rights and lawful interests of neighboring landholders and should take all necessary measures to protect lands and guarantee their correct use.

Article 83. Termination of the right to use a plot of land issued for mineral extraction

With the termination of the right of mining on the lands specified in the regulations about the use of earth-bowels, the right of individuals and legal entities to use the allotted land are terminated (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

In this case, individuals and legal entities shall be obliged to rehabilitate land and return to the initial user in the established order.

Article 84. Transport lands

Lands assigned for needs of appropriate type of transport, for maintenance, reconstruction, development and modernization of communication routes, are regarded as transport land.

These lands are subdivided into lands of automobile, railway, water and air transport.

Article 85. Lands of main pipelines

Land plots allocated to individuals and legal entities for subsidiary premises and facilities, servicing and other constructions providing normative exploitation of this branch in accordance with technical projects are considered as lands under main pipelines (gas pipelines, oil pipelines) (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Individuals and legal entities that were given strips of land along the main pipelines for limited term use are bound to bring these strips of land into the former state after construction works have been finished (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 86. Lands of communication, radio installation and electric transmission lines

Lands of communication, radio installation and electric transmission lines are lands given to the enterprises, institutions and organizations responsible for maintenance of these lines; the said enterprises can use the assigned land to build supports for air communication lines, radio installation and electric transmission lines to construct buildings, structures and other facilities in conformity with the technical projects and norms.

Article 87. Lands for the needs of defense

Lands for needs of defense are lands given for stationing of troops and their permanent activities, for military institutions, educational establishments, enterprises and organizations of the Military Forces of the Republic of Tajikistan, border troops and internal security troops.

Chapter XIV. ENVIRONMENTAL PROTECTION LAND, LANDS USED FOR HEALTH-IMPROVEMENT AND RECREATION PURPOSES, LANDS OF HISTORICAL AND CULTURAL VALUE

Article 88. Environmental protection lands

Environmental protection lands include lands of preserves, national and dendrological parks, botanical gardens, reserves (with the exception of those where hunting is allowed), natural monuments.

On the specified lands any kind of nonconforming activities is prohibited.

In order to guarantee the appropriate status to preserves, national and dendrological parks, botanical gardens, reserves (with the exception of those where hunting is allowed), natural monuments it is necessary to establish conservation districts; any kinds of activities that can harm the special regime of these lands are prohibited.

Procedure for the use of health improvement lands are determined by the legislation of the Republic of Tajikistan.

Article 89. Health-improvement lands

Health improvement lands are lands with natural curable properties (spas, mud, climatic and other conditions), favorable for health-improvement and medical treatment.

Lands of health resorts are subject to special protection. In order to protect their natural medicinal properties, all health resorts have sanitary protection areas. Land-holders, whose plots fall within these sanitary protection areas, shall retain their plots. Within the protected lands it is prohibited to lease out plots of land to enterprises, institutions, organizations, if their activities are incompatible with the aim of conservation of natural medicinal properties and favorable recreation conditions of the said district.

Procedure for the use of health-improvement lands are stated by the legislation of the Republic of Tajikistan.

Article 90. Recreation lands

Lands meant for and used for organized mass recreation and tourism are regarded as recreation lands.

Recreation lands include land plots for holiday homes, sanatoriums, camping sites, tourist centers, permanent and tent tourist camps, houses for fisher and hunter, children's tourist centers, parks, young pioneer and sports camps situated beyond health improvement lands.

Any kinds of nonconforming activities are prohibited on recreation lands.

Procedure for the use of the specified lands is determined by the legislation of

the Republic of Tajikistan.

Article 91. Lands of historical and cultural value

Lands of historical and cultural value include lands of historical and cultural reserves, memorial parks, burials, archeological monuments.

Any kinds of nonconforming activities are prohibited on this lands. Procedure for the use of the specified lands is determined by the legislation of the Republic of Tajikistan.

Chapter XV. LANDS OF THE NATIONAL FOREST RESERVES

Article 92. Lands of the national forest reserves

Lands of national forest reserves are lands covered with forests, as well as non-forest covered lands, allotted for needs of forestry.

Lands of the national forest reserves are to be practically separated from other land categories by boundary marks of specified kind.

Article 93. Use of lands of the national forest reserves

Lands of the national forest reserves are used in line with their main purposes for conducting forest husbandry and for the needs of the national economy.

Lands of national forest reserves are used for forestry industry (forest-planting, reforestation, etc.) and procurement of the bounties of nature by forest and other state and public organizations, enterprises and institutions, that have been allotted portions of the said land so that they can perform their tasks.

Article 94. Allocation and withdrawal of state forest reserve lands for agricultural and non-agricultural purposes

The state forest reserve lands, which are not used for forestry and forestry industry, are allocated for use of individuals and legal entities for agricultural and non-agricultural needs/purposes in the order established by this Code.

Payment for state forest reserve lands is withdrawn along with compensation of damage caused by use of forests.

The order of use of the state forest reserve lands is determined by the legislation of the Republic of Tajikistan (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Chapter XVI. LANDS OF THE NATIONAL WATER RESOURCES (FUND)

Article 95. Lands of the national water resources

Lands of the national water resources include lands occupied by water basins, glaciers, water from melted snow swamps, hydro engineering and others water facilities as well as strips of land along water basins and main or inter-farm cannels and collectors.

Article 96. Purpose and use of the lands of national water resources

Lands of the national water resources are used to maintain rational utilization of all water reserves as well as for purposes of water economy, fish and forest husbandry and for the needs of other sectors of national economy, water transport, research works and other purposes.

On the lands of national water resources is allowed:

- to build constructions that are meant to satisfy the needs of the population for drinking and household water and the needs of the national economy for water;
- to erect and reconstruct hydro-technical facilities for water conveyance to arid areas and for" irrigation of arable lands;
- to construct riverbank-reinforcement facilities, anti-flood barrages and dams, and other facilities that prevent or eliminate harmful effects of water,(floods, inundation, swamping, soil making soil greasy gulling, landslides, mud flows and etc.);
- to use land plots in riverside zones for agricultural needs and for vegetable gardens and for services allotments.

Procedure for the use of national water resources lands is determined by the legislation of the Republic of Tajikistan.

Article 97. Restrictions on the use of allotment lands along reservoirs

Construction of structures on reservoir-side plots which hamper target use of water resources is forbidden (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 98. Land safeguard zone of state water resources

Safeguard zones are established in order to ensure the necessary sanitary conditions of drinking and household water and of water used for curative, recreation and health improvement needs of the population.

The size of protective zones is established by the legislation of the Republic of Tajikistan.

Chapter XVII. LANDS OF THE NATIONAL RESERVE

Article 99. Lands of the national reserve

Lands of the national reserve include lands that are not allotted for perpetual use.

Apart from this, they include lands the right of use of which is regarded as terminated in accordance with Article 37 of the present Code, and lands of the special land reserve (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Lands of the national reserve are under the jurisdiction of rayon Hukumats and are allotted mainly as tenement lands for agricultural purposes.

Article 100. The purpose of the national reserve lands

Lands of the national reserve are a land reserve for agricultural manufacture, industry, transport and other -needs of the national economy.

Chapter XVIII. RESPONSIBILITY FOR INFRINGEMENT OF THE LAND LEGISLATION

Article 101. The responsibility for infringement of the land legislation

The autocratic exchange of the land plots is void. The responsibility for infringements of the land legislation, is stipulated by the present legislation of the Republic of Tajikistan.

Article 102. Assignment of exacting means, from the violators of the land legislation

Penalty sums coming from legal entities and natural persons are used and spent on (Law of the Republic of Tajikistan No.498 as of 12.12.97):

- a) development of virgin lands for agricultural area, restoration and increase of soil fertility;
- b) restoration of degraded areas, re-cultivation of the polluted and broken lands and other measures on land improvement;
- c) protection of lands and other natural resources;
- d) realization of land estimation works and works on lands inventory;
- e) realization of land cadastral works;
- f) realization "of lands tenure works";
- g) material and technical provision of bodies carrying out state control on use and protection of lands;
- h) material stimulation of the workers of bodies carrying out state control over use and protection of lands;
- i) development and implementation of projects and conducting scientific research works for improvement of lands (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Article 103. Restoration of boundary marks

All boundaries of the Republic of Tajikistan, Gorno-Badakhshan Autonomous Oblast, regions, towns, rayons and land users are indicated by land marks.

For violations of landmarks the guilty persons shall bear responsibility in accordance with the legislation of the Republic of Tajikistan.

Article 104. Return of autocratically engaged land plots

Autocratically occupied land plots are returned in accordance with their belonging without compensation of expenses, made during their illegal usage. Land plots shall be brought in to appropriate condition including demolition of structures at the expense of the enterprises, institutions, organizations and citizens autocratically occupied the land plots.

Land occupied without authorization is returned pending upon the decision of district (urban) body of the executive authority.

Chapter XIX. INTERNATIONAL AGREEMENTS

Article 105. International agreements

In case international agreements recognized by the Republic of Tajikistan establishes other rules, than those foreseen/fixed by the Land Code of the Republic of Tajikistan, the rules of the international agreement are applied (Law of the Republic of Tajikistan No. 23 as of February 28, 2004).

Resolution of
Madjlisi Oli of the Republic of Tajikistan
“On Carrying the Land Code of the Republic of Tajikistan into effect”

Madjlisi Oli of the Republic of Tajikistan hereby resolves:

- i. To implement Land Code of the Republic of Tajikistan from the moment of its official promulgation.
2. Until legislative and other regulatory acts of the Republic of Tajikistan are brought to conformity with the Land Code of the Republic of Tajikistan legislative and regulatory acts of the Republic of Tajikistan in force are applied in the part which does not contradict the indicated Code.
3. To the Government of the Republic of Tajikistan in a three months term is to:
 - a) submit proposals on bringing land laws in force to conformity with the Land Code of the Republic of Tajikistan for consideration;
 - b) to bring the decisions of the Government of the Republic of Tajikistan to conformity with the Land Code of the Republic of Tajikistan.
4. In connection with the adoption of the Land Code of the Republic of Tajikistan to consider invalid:

Resolution of the Supreme Soviet of the Republic of Tajikistan “On carrying into effect of the Land Code of the Republic of Tajikistan No. 216 as of December 15, 1990 (Record of the Supreme Soviet of the Tajik SSR No.1. 1991, Article.2).

Chairman
Madjlisi Oli of the Republic of Tajikistan

S. Radjabov

Dushanbe, December 19, 1996
No. 327