

GOVERNMENT OF THE REPUBLIC OF TAJIKISTAN

RESOLUTION

“ON APPROVAL OF THE REGULATION ON THE STATE CONTROL OVER THE
USE AND PROTECTION OF LANDS IN THE REPUBLIC OF TAJIKISTAN”

July 15, 1997 № 294 Dushanbe

The Government of the Republic of Tajikistan resolves:

1. The Attached Regulations on the State Control over the Use and Protection of Lands in the Republic of Tajikistan shall be approved.

2. The following shall be considered as invalid:

- Resolution of the Council of Ministers of the Republic of Tajikistan No. 377 from August 3, 1994 “On Approval of the Regulations on the State Control of the Use and Protection of Lands”;

- Resolution of the Government of the Republic of Tajikistan No. 76 from August 21, 1996 “On Amending the Regulations on the State Control of the Use and Protection of Lands”.

E. Rahmonov
Chairman
Government
Republic of Tajikistan

Approved
Resolution
Government
Republic of Tajikistan
July 15, 1997
No. 294

REGULATIONS
ON THE STATE CONTROL OF USE AND PROTECTION OF LANDS IN THE
REPUBLIC OF TAJIKISTAN

1. General Provisions

1.1. This Regulations shall establish procedure of the state control of use and protection of lands (further called state land control), developed in accordance with the Land Code of the Republic of Tajikistan, which is compulsory for execution by all legal entities, regardless of subordination and property form, as well as by individuals and officials in the territory of the Republic of Tajikistan.

(Government Resolution No. 318 from July 26, 2000)

1.2. The task of the State Land Control is to ensure observance by all ministries, departments, state, cooperative enterprises, organizations and institutions, as well as officials and individuals of the requirements of the land legislation aimed at rational, effective use and protection of lands.

1.3. The State Land Control shall be implemented by the State Committee of the Republic of Tajikistan on Land Management and its local branches and the Ministry of Nature Protection of the Republic of Tajikistan (Resolution No. 318 from July 26, 2000) (Resolution No. 189 from April 19, 2001).

These agencies shall implement their functions jointly with the bodies of representative and executive powers and internally (Resolution No. 318 from July 26, 2000).

1.4. The main state inspector on state control of use and protection of land shall be the Chairman of the State Land Management Committee of the Republic of Tajikistan on, and deputy chairmen and the head of the Main State Control Department on use and protection of lands shall, at the same time, be deputies of the Chief State Land Inspector of the Republic of Tajikistan. (Resolution No. 318 from July 26, 2000), (Resolution No. 189 from April 19, 2001).

Chairmen of GBAO regional, town and rayon land management committees shall be the main state land inspectors of appropriate territories, and their deputies shall, at the same time, be deputies of the chief state land inspector of appropriate territories.

Officials and specialists of the State Land Management Committee, regional, town and rayon committees on land resources and land management, on which implementation of state land control is imposed, shall be state land inspectors of appropriate territories.

Service vehicles of the state land inspectors shall have identifying signs "State Land Inspection (SLI)". (Government Resolution No. 318 from July 26, 2000)

State land inspectors shall be given special identity cards.

The Chief State Land Inspector of the Republic of Tajikistan, chief state land inspectors of according territories shall have seals and letterheads with the picture of the State Emblem of the Republic of Tajikistan and their titles.

2. Functions of Bodies Implementing State Control of Use and Protection of Lands

2.1. The State Land Management Committee of the Republic of Tajikistan and the Ministry of Nature Protection of the Republic of Tajikistan shall:

- implement state land control;
- organize check and expertise of change in the quality of land state;
- take measures to eliminate violations of the land legislation;
- implement expertise of investment programs and projects to use and protect lands, as well as land management projects; (Government Resolution No. 318 from July 26, 2000);
- participate in preparation of normative and legislative acts related to use and protection of lands;
- introduce in the established order proposals on conservation of degraded and contaminated lands, further use of which may lead to threat to lives and health of people, emergency situations, disasters, destruction of historical and cultural heritage and natural landscapes, negative ecological consequences and pollution of agricultural products and water sources;
- inform the population on the state of the land reserve, effectiveness of its use and protection of land;
- participate in concordance of town-planning and land management documentation in the work of the commission accepting irrigated, recultivated and other lands, on which measures to improve their quality state were taken, as well as objects constructed for land protection purposes; (Government Resolution No. 318 from July 26, 2000);
- implement control of observance of the established regime of use of the lands of nature protection and recreation designation.

2.2. The State Land Management Committee of the Republic of Tajikistan and its local agencies shall implement state control of:

- observance by enterprises, organizations, regardless of subordination and form of property, as well as individuals and officials of the provisions of the Land Code of the Republic of Tajikistan, other legislative acts on land, decisions of executive authorities, orders, instructions and decrees of the State Land Management Committee of the Republic of Tajikistan on rational use of lands;
- observance by land users of the established regime of land plots' use in accordance with their designations;
- observance of established terms for consideration of the citizens' applications (petitions) on allocation of land plots (Government Resolution No. 318 from July 26, 2000);
- timely payment of land tax by land users (Government Resolution No. 318 from July 26, 2000);
- prevention of unauthorized occupation of land plots;
- submission of reliable information on availability, state and use of land resources;
- timely recultivation of damaged lands, rehabilitation of fertility and other useful features of land, withdrawal, preservation and rational use of the fertile layer of soil during works, which may cause damage of land;
- implementation of land management and other projects on use and protection of land;
- designing, placement and construction of objects affecting state of land;
- timely and quality implementation of measures on land improvement, prevention and liquidation of erosion, salinity, swamping, under flooding, desertification, cluttering up, contamination of soil, and other processes causing land degradation;
- installation and preservation of land-marks;
- timely return of lands, transfer for fixed term use.

2.3. The Ministry of Nature Protection of the Republic of Tajikistan and its local agencies shall implement control over:

- nature protection requirements at allocation of lands for all types of economic activities;
- observation of ecological standards at development of new techniques and technologies for soil cultivation, as well as at location, designing, construction and exploitation of enterprises and other objects;
- prevention of cluttering of lands, as well as contamination of soil with sewage, pesticides, mineral fertilizers, toxic and radioactive substances;
- implementation of measures envisaged by the land management projects and other projects on protection of soil;
- observation of land legislation on land protection;
- works on recultivation of damaged lands;
- prevention of unauthorized occupation of lands of nature protection nature-nursery and recreational designation;
- implementation of measures to prevent damage and elimination of fertile layers of soil, degradation of land and conservation of agricultural lands out of circulation, and contaminated lands.

3. Rights and Obligations of the Officials, Bodies Implementing State Control of Use and Protection of Land

3.1. The Chief State Land Inspector of the Republic of Tajikistan and his deputies, chief state land inspectors of according territories, officials of the Ministry of Nature Protection of the Republic of Tajikistan shall have the following rights in accordance with the imposed functions on state land control within their competence:

- submit materials on violations of the land legislation to appropriate bodies to solve the issue of calling of the guilty persons to account;
- apply, without paying any duty, to the court without fail for compensation of losses caused by violation of the land legislation, on issues to cancel illegal decisions related to withdrawal and allocation of land plots, as well as claims on penalties from legal entities, individuals and officials (Government Resolution No.318 from July 26, 2000);
- suspend execution of illegal decisions on withdrawal and allocation of land plots before consideration of protests in appropriate bodies (higher executive body, court, economic court) (Government Resolution No.318 from July 26, 2000);
- seal up and temporarily suspend activities of land users with no land use certificate (Government Resolution No.318 from July 26, 2000);
- recognize as invalid land use agreements concluded in violation of the land legislations (Government Resolution No.318 from July 26, 2000);
- suspend industrial, civil and other construction, development of mineral and peat deposits, agro technical, forest amelioration, geological exploration and other works, if they are implemented in violation of the land legislation, established land use regime for specially protected territories and can lead to destruction, contamination, pollution or damage of the fertile layers of soil, development of erosion, salinity, swamping and other processes reducing fertility of soils, including contiguous territories, and if these works are conducted on projects that have not passed expertise or received negative conclusion;
- submit proposals on full and partial withdrawal of lands in case of unauthorized use of lands, irrational use of land plots leading to reducing of soil fertility, worsening

- of environment, failure to use land plots in terms envisaged by the Land Code of the Republic of Tajikistan to appropriate local executive authorities;
- make acts on violation of the land legislation and consider cases on violation of the land legislation in the order and on terms established by the legislation;
 - freely visit enterprises, organizations and institutions, assess land plots in use regardless of the property forms and departmental belonging, land plots occupied by military, defense and other special objects taking into account their visiting regime, upon submission of a service certificate;
 - get in the established order statistical reports on the state of land reserve from ministries and departments;
 - involve experts for assessment of lands, checking of implementation of land protection measures;
 - give enterprises, organizations and institutions, as well as citizens instructions and prescriptions compulsory for execution on land protection issues, elimination of land legislation violations;
 - submit prescriptions to the Government of the Republic of Tajikistan to suspend execution of illegal decisions on allocation of land plots before consideration of claims in the court, economic court ((Government Resolution No.318 from July 26, 2000);
 - submit compulsory prescriptions to related financial-credit bodies on cessation of financing (lending) of construction objects in case of absence of land use certificates (Government Resolution No.318 from July 26, 2000).

The Chief State Land Inspector of the Republic of Tajikistan and his deputies, chief state land inspectors of related territories and their deputies shall have in addition the right to control conclusion of agreements on lease of land plots and other actions with land and submit proposals on recognition of invalidity of actions that violate current land legislation.

Officials and individuals impeding implementation of the state land control, applying threats, using violence to persons of special authorized bodies implementing state land control shall bear responsibility according to the legislation of the Republic of Tajikistan.

The Ministry of Internal Affairs of the Republic of Tajikistan, within its competence, shall assist officials in charge of state land control.

Officials in charge of state land control shall be responsible for timely taking measures on infringers of the land legislation, for objectiveness of the materials related to conducted checks.

Losses caused to land users by illegal actions of officials in charge of state land control shall be reimbursed according to the legislation of the Republic of Tajikistan.

Complaints on actions of officials in charge of state land control shall be submitted to the higher officials or to the court.

Local executive authorities can establish social protection guarantees for officials in charge of state land control.

3.2. The chief state land inspectors of appropriate territories and their deputies follow up on actual elimination of land legislation violations, as well as implementation of all prescriptions of state land control agencies by all land users. In addition he maintains the checkbook on observation of the land legislation. All materials on control of use and protection of lands (protocols on violation of the land legislation, instructions, etc.) shall be compiled in a special file, which shall be kept during the established time.

3.3. Chief state land inspectors of appropriate territories shall prepare reports on control of use and protection of land twice a year, as on July 1 and December 1, which shall be submitted to the chief state land inspector of the Republic of Tajikistan no later than July 10 and December 10.

3.4. The State Land Management Committee of the Republic of Tajikistan jointly with the Ministry of Nature Protection of the Republic of Tajikistan shall prepare annual report on control of use and protection of land and submit it to the Government.

4. Procedure of Imposition of Penalties for Violation of the Land Legislation

4.1. Agencies of the State Land Management Committee of the Republic of Tajikistan and the Ministry of Nature Protection of the Republic of Tajikistan in accordance with their competence in the administrative order shall impose penalties for violation of the land legislation within one month from the day the violation was discovered, and in certain cases – no later than in one month from the day of violation.

4.2. Agencies of the State Land Management Committee of the Republic of Tajikistan in accordance with the Article 221.1 of the Code of the Republic of Tajikistan on Administrative Violations shall impose penalties:

- failure to meet terms for decisions or concealment of information on availability of a special land reserve;
- unpractical use of land, failure to meet obligatory measures on land improvement, protection of soil from wind, water erosion and prevention of other processes worsening state of soil;
- unauthorized occupation of land plots;
- failure to use subsidiary land and collective gardening;
- failure to use land for specified purpose;
- damage of land and destruction of fertile layers of soil;
- failure to make land payments;
- failure to meet prescription of state land control bodies;
- designing, placement and putting into operation negatively affecting state of land;
- distortion of information on state and use of land;
- violation of terms of timely return of occupied land, failure to meet obligations to bring land to the state suitable for specified use;
- destruction of informational land-marks;
- prevent conducting land inventory.

4.3. Agencies of the Ministry of Nature Protection of the Republic of Tajikistan in accordance with Article 231.1 of the Code of the Republic of Tajikistan on Administrative Violations shall impose penalties for:

- unauthorized occupation of land of nature protection, nature-nursery, rehabilitation, recreation purposes;
- contamination of land with chemical and radioactive substances, production waste and sewage, infection with bacterial-parasitic and sequestration harmful organisms;
- damage of land and destruction of the fertile layer of soil;
- failure to meet prescriptions issued by the officials of the Ministry and its local agencies on elimination of violations of the land legislation;
- violation of the established land use regime for nature protection, nature-nursery, rehabilitation, recreation purposes, other land with special terms of use, as well as land exposed to radioactive contamination;
- designing, placement and putting into operation of the objects negatively affecting ecological state of land.

4.4. Cases on violations indicated in the paragraphs 4.2 – 4.3 of this Regulation shall be considered by the management of the state service and deputies in accordance with the Code of the Republic of Tajikistan on Administrative Violations, as well as state land inspectors and officials of these bodies.

At failure to take measures to liquidate violations after imposition of penalty materials shall be transmitted to the law-enforcement bodies at the place of violation for bringing guilty persons to criminal account in accordance with the current legislation. Impositions of penalties shall not release the guilty persons from elimination of committed violations and compensation of losses or damage caused.

4.5. Amounts of penalties for violation of the land legislation shall be received to the special accounts of bodies implementing state land control and shall be used for specified purpose in accordance with the Land Code of the Republic of Tajikistan. For material incentives, state land control bodies shall be allowed to use 15 percent of the total amount of penalties withdrawn (Government Resolution No. 318 from July 26, 2000).

4.6. At discovery of land legislation violations the state land inspector shall issue compulsory instruction establishing the terms for elimination of the violation (Annex No. 1).

At failure to eliminate the violation in the established term the state land inspector drafts an Act on violation of the land legislation (Annex No.2).

While drafting the Act on violation of the land legislation infringers shall be informed on their rights and obligations, which will be noted in the Act.

A person, who committed violation of the land legislation, shall have the right to set forth motives of his refusal to sign.

The Act on violation of the land legislation shall be submitted within five days to the official in charge of the state land control.

4.7. In accordance with the paragraph 3.1 of this Regulation the state land inspector shall have the right to apply to the appropriate bodies of the Ministry of Internal Affairs of the Republic of Tajikistan for assistance to identify the person of the land legislation infringer (Annex No.3)

4.8. In accordance with the submitted act on violation of the land legislation, officials of the state land control shall issue necessary resolutions on imposition of penalties on the guilty officials, legal entities and individuals within ten days (Annex No. 4).

4.9. At failure of timely payment of penalty withdrawal of money in the amount of the penalty from legal entities (except for foreign and international organizations) called to administrative account for violation of the land legislation shall be made indisputably based on the resolutions of officials in charge of state land control.

Withdrawal of money from foreign and international organizations, entrepreneurs without a legal status of officials and individuals shall be made based on the decision of the court.

For compulsory execution of the resolution on imposition of penalty officials in charge of state land control shall prescribe:

- to withdraw penalty from the salaries of officials and individuals, who violated land legislation (Annex No. 5);
- to withdraw penalty from legal entities, which have settlement accounts in financial-credit institutions (Annex No.6).

4.10. At discovery of works conducted in violation of the land legislation the state land inspector shall issue a request on suspension of these works with establishment of terms for elimination of the violation, in accordance with this Regulation. Annex No.7)

In case these works are continued without taking measures to eliminate violations the state land inspector shall submit to the financial-credit body a prescription on cessation of their financing (crediting), in accordance with the Regulations. (Annex No. 8).

In case of failure to take measures to eliminate violations after imposition of penalties materials shall be submitted to the law enforcement bodies at the place of violation for calling to criminal account of persons in accordance with the current legislation of the Republic of Tajikistan (Annex No. 9).

4.11. The State Land Management Committee of the Republic of Tajikistan and the Ministry of Nature Protection of the Republic of Tajikistan shall issue instructions and give explanations on the procedure of the state land control and approve forms of certificates for state land inspectors and other documents necessary for implementation of the state land control.