

COUNCIL OF MINISTER OF THE REPUBLIC OF TAJIKISTAN

DECREE

"ON APPROVAL OF REGULATION ON ALLOCATION OF LAND PLOTS  
FOR STATE AND PUBLIC USE'

July 14, 1994, No.329, Dushanbe

Council of Ministers of the Republic of Tajikistan hereby resolves:

1. To approve the attached Regulation on allocation of land plots for state and public needs.
2. The following should be invalid:

Decree of the Council of Ministers of the Tajik SSR No.200 as of June 19, 1975 "On approval of Regulation on procedure of allocation of land plots fro the state and public use on the territory of the Tajik SSR";

Paragraph 4 of the amendments to be introduced in Decree of the Government of the Republic of Tajikistan on nature protection and harmonious exploitation approved by Decree of the Council of Ministers of the Tajik SSR No.199 as of June 21, 1985;

Decree of the Council of Ministers of the Tajik SSR No.259 as of September 25, 1978 "On approval of the Regulation on procedure of allocation for temporary possession of land plots for state and public use on the territory of the Tajik SSR."

Chairman  
Council of Ministers  
Republic of

A.Samadov

Executive officer  
Council of Ministers  
Republic of

R.Mirzoev

Approved  
Decree of the Council of Ministers  
Republic of  
July 14, 1994, No.329

REGULATION  
ON ALLOCATION OF LAND PLOTS FOR THE STATE AND PUBLIC USE

1. GENERAL PROVISIONS

1.1. The present Regulation establishes the procedure on consideration of applications of enterprises, institutions, organizations as well as citizens on allocation of land plots from all lands irrespective of their proprietor except for the cases stipulated by the legislation of the Republic of Tajikistan.

1.2. A grant of land plots shall be implemented in the procedure of allocation. Allocation of land plots shall be implemented pursuant the Decree of the Government of the Republic of or a decision of the corresponding hukumat.

1.3. Specialists on land tenure of Glavupravzem<sup>1</sup> of the Ministry of Agriculture of the Republic of Tajikistan and its specialized design-surveying institutes should prepare and register a land tenure file for allocation of land plots.

A land tenure file to allocate land plots for the state and public use is to be registered as a rule for an object as a whole, irrespective of the number of land users from whose lands the land plots are withdrawn. In the vent the object is situated on the territory of several administrative rayons, a land tenure file on allocation of land plots shall be prepared by each rayon.

1.4. If additional allocation of land plots is required for existing objects, while preparing a and tenure file a detailed inspection of the earlier allocated land plots is made, their use for a special-purpose designation and also the state of reclamation of lands is checked. Additional allocation of land plots for open mining and rock products quarrying shall be implemented after the earlier allocated land plots are made suitable for farm-use and returned to their former land users.

1.5. According to Article 21 of the Land Code of the Republic of Tajikistan withdrawal of especially valuable productive lands (arable land, wild land, perennial fruit plantings and cultural pastures), valuable forest range (acerate and nuciculture), and also the lands occupied with especially protected natural, historic-cultural, improving objects, shall not be allowed. In special cases, if it is necessary to back line structures, construct settlements, industrial objects and other major objects, these lands shall be withdrawn on by the decree of the Government of the Republic of Tajikistan.

1.6. In case especially valuable productive lands are withdrawn by the decree of the Government of the Republic of Tajikistan for state and public use, their area should be restored due to development of new lands. If in the farms there are no lands for development, radical amelioration of the existing agricultural lands with the purpose to improve soil fertility shall be carried out.

2. PROCEDURE OF PRELIMINARY COORDINATION OF THE SITE OF THE CONSTRUCTION PROJECT

2.1. Enterprises, establishments and organizations interested in allocation of land plots shall submit applications to the appropriate hukumat or to the Government of the Republic of Tajikistan according to their powers specified in Articles 31-36 of the Land Code of the Republic

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<sup>1</sup> Glavupravzem – Main Department for Land Tenure

of Tajikistan.

2.2. The application on coordination of placing of the project shall underline the purpose for which the land plot is necessary, the dimension and site of the project, and also a decision of a higher body or the Government of the Republic on construction of the object or on mining.

The application on coordination of the site of mineral deposits shall be attached with the conclusion of the Gosgortehnadzor<sup>2</sup> bodies and a copy of or an abstract from mountain-land allocation act.

2.3. The plan of social and economic development or the decision of a higher body is the basis for application on withdrawal of the land plot.

2.4. Rayon (city) hukumat within a five-day term shall consider the application and create commission of:

vice-chairman of the rayon (city) hukumat (the chairman of the commission);

chief of the regional department for land resources and land reforms;

chief of the department for capital construction of the rayon (city) hukumat;

rayon (city) architect;

a representative of the bodies of sanitary and fire supervision;

representatives of regional committee for nature protection;

representatives of land users and enterprises, organizations and establishments interested in withdrawal of lands.

The term to prepare proposals on choosing the place for an allocated land plot shall not exceed 15 days.

2.5. When coordinating the site of the object, the commission being guided by materials of an inter-farm economic estimation of the lands, projects of inter-farm land tenure, rayon lay-out, general plans of site development of settlements and resort places, and also other long-term plans, national economy development projects of the given region, materials of special (geobotanical, hydraulic engineering, and agro-economic) surveys shall:

study and check a possibility of placing the objects on the reserved lands, on the lands unsuitable for agricultural production, or on agricultural lands of worse quality. If it is necessary to place the object on the lands of the forest fund, the selection of the site shall be made mainly due to the areas uncovered by forest or the lands occupied with bushes and invaluable plantings;

provide maximal conservation of valuable productive lands and existing organization of the territory, cease of erosive processes, bogging and mineralization of lands, elimination of shortcomings of land uses who are supposed to be land-withdrawn, most expedient use of the investments spent on improvement of the lands, on construction of the irrigating (drying) network, and also prevention from pollution of the surrounding reservoirs and environment.

2.6. According to the results of the work done the commission shall develop a formal note on selection of a land plot where the following should be underlined:

the commission;

characteristic of the land plots according to the materials of the inter-farm valuation of the lands specifying the efficiency of the lands for the last 5 years;

availability of structures, constructions, irrigating and collector-drainage network, roads and other objects, perennial plants and crops on the land plots, their book value;

special-purpose designation of the land plot planned for withdrawal;

data on losses and costs related to withdrawal of the land plot, including rough damages to land users and losses in agricultural production;

data on removal of a fertile layer of soil and its removal to unproductive or recultivated lands with tracing of a map from the plan of land use;

remarks and proposals of the representatives of the interested enterprises, organizations and establishments;

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<sup>2</sup> Gosgortehnadzor – State city technical supervision department

the minutes of the general meeting or the meeting of the authorized members of the collective farm (agricultural cooperative) or the order of management of the state farm (state agricultural enterprises);

tracing of a map from the plan of land use with drawing the asked land plot with signatures of all members of the commission and the parties concerned;

the act of selection of the land plot is made out by signatures of the chairman and all members of the commission and submitted to the rayon (city) hukumat.

2.7. Rayon (city) hukumat within a ten-day period shall consider the materials submitted. If the decision of the question is positive the rayon (city) hukumat shall make a decision on designing of object on the selected land plot.

When the question to permit design work is in the powers of the oblast hukumat, the materials with the rayon (city) hukumat decision shall be sent to the oblast department for land resources, land tenure and land reforms for preparation and submission to the oblast hukumat for consideration.

If the decision of the given question is in the powers of the Government of the Republic of Tajikistan, the oblast hukumat shall send a land tenure file with the decision of the oblast hukumat to the Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan for it to prepare materials and submit them to the Government of the Republic of Tajikistan for consideration.

2.8. The Government of the Republic of Tajikistan on the basis of the materials of preliminary coordination on selection of the land plot, decision of the corresponding hukumat shall permit to design the object on the selected land plot.

2.9. The permit of the Government of the Republic of Tajikistan, appropriate hukumats on designing shall not be the basis for definitive withdrawal of the land plot.

2.10. Enterprises, establishments, organizations shall take into consideration costs for indemnification of land users' damages and losses of agricultural (forest) production in projects (general plans) of construction, and also costs for warehousing, preservation of a fertile layer of land and its removal to unproductive or recultivated lands.

### 3. PROCEDURE OF PREPARATION AND REGISTRATION OF MATERIALS FOR WITHDRAWAL OF THE LAND PLOT

3.1. After approval of the civil-engineering design and allocation of necessary funds for its realization, the enterprises, organizations and establishments interested in withdrawal of the land plot shall submit applications for registration of the land tenure file on allocation of a land plot to occupy the given plot to which the following should be attached:

materials of coordination of the object site;

a copy of the project (general plan) of construction (placing of all objects of construction on the asked site with the appendix of consideration of the required areas and indication of sequence of occupation of the areas and constructions by years);

abstract from the approved title list of construction or information of the higher organization on financing construction;

project of subsequent rehabilitation of the lands if a land plot is allocated for open mining of minerals or for construction that can cause soil disturbance.

3.2. Rayon (city) hukumat not later than within a five-day period shall consider the application and give permission to prepare a land tenure file for allocation of a land plot.

3.3. Enterprises, establishments and organizations that ask for land plots shall conclude an agreement with the Glavupravzem of the Ministry of Agriculture to prepare a land tenure file and within a ten-day period transfer funds to its special account.

On the basis of materials of the preliminary coordination of the place of the object and its survey in actual measurements, the bodies of the State land tenure services shall develop a

project of allocation of a land plot using for this purpose tracing of a map from the plan of land use and the materials specified in 3.1 of the present Regulation.

3.4. The land tenure materials on allocation of the land plot shall be sent to:

a) collective farms – for consideration of the general meeting of the members of the collective farm (representatives' meeting) in the minutes of which, after the appropriate decision (consent) is taken, shall be underlined:

number of the minutes and the date of the meeting;

number of the members of collective farm (representatives) present of the total number of the members of the collective farm (representatives);

to whom, for what purposes and for what term (limited – with indication of the term, perpetual use) a land plot is allocated;

general area of the land plot allocated with its decoding by lands;

size of the losses subject to compensation to the collective farm, and also losses of agricultural production;

number of households (families), conditions of their displacement, removal of public structures and houses of citizens, the place of removal and at the expense of what lands the citizens will be allocated new holdings if displacement is supposed to be carried out from the allocated land plot;

b) to state farms, other state agricultural enterprises, forest farm and other land users – for consideration of the state farm administration, forest farm administration and administration of other land user in the conclusion of which the data stipulated by the "a" (except for the first two points) of Paragraph 3.4. of the present Regulation should be specified.

3.5. Materials on allocation of a land plot with a decision of the general meeting of the members of the collective farm (representatives' meeting), the agricultural cooperative or with the conclusion of the state farm management, other land user's management shall be submitted for consideration to the rayon (city) hukumat.

The rayon (city) hukumat within a fifteen-day term shall consider the specified materials, make a decision on allocation of the land plot for construction of an object and authorize the state land tenure bodies to transfer the project of allocation of the lands in actual measurements within the limits of its powers, and on the questions beyond its powers all materials with the decision and explanatory memorandum attached to it shall be sent to a regional department for land resources of land tenure; hukumats of the regions of republican subordination – to Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan in the procedure specified in 2.7. of the present Regulation. In case the land plots for use of enterprises, establishments and organizations are allocated from the lands of the farms of the rayon situated in the territory of other rayon, the materials on allocation of the lands shall be submitted to the rayon (city) hukumat on which territory the land plot is situated for consideration and approval.

3.6. There should be the following materials in the land tenure file on allocation of a land plot sent to the oblast hukumat or to the Glavupravzem of the Ministry of Agriculture:

application of the enterprise, establishment, or organization on allocation of the land plot for using;

materials on agreement of the location of the object;

a copy of the project (general plan) of construction with placing all objects of construction on the asked site with the appendix of calculation of the required areas with indication of sequence of occupation of the areas of construction by years;

tracing of a map from the land use plan of the collective farm, state farm, other land user with specification of the land plot intended for allocation, tracing of map from the general plan of the city (settlement) or the built drawing of a city (settlement) with drawing the borders of the land plot intended for allocation;

act of technical inspection with the conclusion of the forest farm and plan (drawing) of the forest plots made by the forest farm in case of allocation of a land plot shall be made from the

lands of the forest fund (including the forests of state farms, collective farms and other land users). The schematic plan (drawing) should specify the borders of groups of forests if allocation is made from several groups (categories) of forests;

explication of farm lands from the lands of which the land plot is allocated before and after its withdrawal, and explications of the land plot allocated for use;

abstract of the minutes of the general meeting of the members of the collective farm (representatives' meeting) or conclusion of the administration of the state farm, forest farm, other agricultural enterprise, organization and establishment on allocation of a land plot registered in accordance with 3.4. of the present Regulation;

act of estimation of damages of land users and losses of agricultural production because of withdrawal of the land plot;

acts of valuation of constructions and plants of every house ownership in the property of citizens;

project of subsequent reclamation of the lands (if the land plots are allocated for open mining of minerals or for construction if it deals with soil disturbance);

information (or the visa in the plan, drawing certified by the seal) of the appropriate territorial geological department about availability of minerals and coordination of allocation of the land plot;

decision of the rayon (city) hukumat on allocation of land plots;

graphic project of allocation of a land plot;

explanatory memorandum to the project of allocation of a land plot signed by his executive.

3.7. The oblast hukumat shall consider the specified materials and make a decision on allocation of a land plot, and on the questions not in the powers of the oblast hukumat all materials with the decision and explanatory memorandum to it shall be sent to the Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan.

3.8. The Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan shall consider all the materials submitted, prepare them and submit to the Government of the Republic of Tajikistan for making a final decision.

3.9. The Government of the Republic of Tajikistan shall consider the materials on allocation of a land plot for construction of the object and make an appropriate decision.

3.10. Enterprises, organizations and establishments prior to receiving the admittance on allocation of a land plot shall be obliged to pay losses to land users and to transfer funds intended for compensation of losses in agricultural production to a special account of the Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan within a ten-day term after making contract on preparation of land tenure materials.

3.11. Financing of a construction project shall start as soon as the enterprises, establishments and organizations submit the State act on the right to land use to the funding bodies.

3.12. It is forbidden to start using the allocated land plot prior to receiving the State act of the right to land use.

3.13. Enterprises, organizations and establishments that fail to pay the losses to land users and transfer funds intended for compensation of losses in agricultural production shall not be given land tenure materials for taking a final decision.

3.14. Questions on allocation of land plots and lands of cities, settlements of city type and settlements that are not included in lands of collective farms, state farms, others cooperative and state agricultural enterprises shall be considered and decided by a city hukumat, a djamoat hukumat according to the Land Code of the Republic of Tajikistan.

3.15. The project of allocation of a land plot approved in the established procedure shall be transferred in actual measurements by bodies of the State land tenure services in the presence of a representative of the enterprise, establishment and organization for which the land plot is



allocated, and in case of need – in the presence of representatives of cooperating land users.

The land plot is fixed in actual measurements by landmarks of the established sample with fixing to constant borders of contours and objects.

Results of work on the land plot allocation project in actual measurements should be made out by the act with the attached drawing of transferring the project in actual measurements. The act and the drawing should be attached to the file on allocation of a land plot.

If the enterprises, establishments and organizations that are allocated land plots, occupy them for construction projects in turn for a number of years, the former land users are authorized to use free land plots for agricultural production.

Transfer the projects in actual measurements shall be made only after implementation of the requirements of 3.10., 3.12., 3.13. of the present Regulation.

3.16. Land tenure files on preparation of land plots shall be made in triplicate: the first copy (original) is sent to the Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan for the account and keeping, the second – to the regional department for land resources, land tenure and land reforms, and the third – to the customer.

The Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan according to the submitted land tenure materials on allocation shall make out the State act on the right to land use under the established form. The made out State act on the right to land use shall be sent to the rayon (city) hukumat for registration. Then one copy shall be given to the land user, and the second one is left at the regional department for land resources, land tenure and land reforms.

3.18. After issuance of the State act on the right to land use the new land user, the regional department for land resources, land tenure and land reforms shall make all changes in the former user's State act on the right to land use, regional maps of land use and other land registration documents.

#### 4. PECULIARITIES OF ALLOCATION OF LANDS FOR AGRICULTURAL PRODUCTION

4.1. Enterprises, organizations, establishments, and also the citizens interested in allocation of land plots for agricultural production shall submit an application to the rayon (city) hukumat.

4.2. The rayon (city) hukumat within a five-day term shall consider the application and send it to the regional department for land reforms and land tenure for preparation.

4.3. The regional department for land reforms and land tenure within a month's time shall prepare a land tenure file and send it to the rayon (city) hukumat for consideration and approval.

4.4. The land tenure file on allocation of land plots shall include the following documents:  
application on allocation of a land plot;  
minutes of the general meeting (representatives' meeting) or the order of the administration of land uses from which lands a land plot is withdrawn;  
tracing of a map from the plan of land use in scale of 1:10000 or 1:25000;  
graphic project of allocation of a land plot in scale 1:5000, 1:10000 or 1:25000;  
explanatory memorandum to the project of allocation of the land plot.

#### 5. REALLOCATION of LANDS AMONG LAND USERS OR FRAGMENTATION OF LANDS

5.1. With a view of elimination of shortcomings in land use according to Article 68 of the Land Code of the Republic of Tajikistan, fragmentation of lands causes reallocation of the lands among land users.

5.2. Reallocation of the lands among land users in the border of the administrative rayon, and also fragmentation of land uses shall be made by a decision of the rayon (city) hukumat on agreement with the land user according to the project of inter-farm land tenure.

5.3. The following materials on reallocation of lands should include:

- applications of the interested land users on reallocation of the lands;
- abstracts of minutes of the general meeting (representatives' meeting), orders of administrations of state farms on possibilities and conditions of reallocation of the lands or fragmentation of lands uses;
- explications of the lands of land users covered by reallocation of lands, fragmentation of land uses or the land plots being transferred;
- tracing of a map from the plan of land use of the farms covered by reallocation of lands, fragmentation with the mapping of the land plots being transferred;
- information about basic economic parameters of farms and cost of the fixed assets being transferred;
- conclusion of departments for agriculture;
- conclusion of the Ministry of Agriculture of the Republic of Tajikistan;
- decision of the rayon (city) hukumat.

## 6. ALLOCATIO of the LANDS FOR INCREASE of SMALL HOLDINGS

6.1. The land user shall apply the rayon (city) hukumat to increase the area of small holdings that within a twenty five-day term shall provide preparation of a land tenure file and make a decision.

When the decision on allocation of land plots is in the competence of the oblast hukumat, the rayon (city) hukumat shall send a land tenure file to the oblast hukumat (rayons without regional division – to the Government of the Republic of Tajikistan).

6.2. The oblast hukumat within a ten-day term shall consider the materials and take a decision.

When the decision on allocation of land plots is to be taken by the Government of the Republic of Tajikistan, the oblast hukumat shall send the land tenure file to the Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan.

6.3. The Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan within a week term shall consider the submitted land tenure file, make a conclusion. In case of the positive conclusion, the Glavupravzem shall attach it together with the draft decree for consideration of the Government of the Republic of Tajikistan.

6.4. The land tenure file should include the following documents: minutes of the general meeting (representatives' meeting) or the order of administration of state farms on necessity of increase of the area of small holdings; information on the area of available small holdings in the farm and their use;

- list of collective farmers, workers or employees of the state farm other farm that requires allocation of individual small holding with specifying the dimension of an allotment;

- tracing of map from the plan of land use of the farm with drawing on it of the border of the lands of the small holding fund;

- decision of the rayon (city) hukumat on necessity to increase of small holdings.