

Approved by the order
of the Chairman of the State
Planning Committee
of February 25, 2003, No.7

INSTRUCTIONS
on Calculation of the Amount of Damage to Arable Lands
through Violation of the Land Laws of the Republic of Tajikistan
by Physical and Legal Persons

1. GENERAL PROVISIONS

1.1. Instructions “On Calculation of the Amount of Damage to Arable Lands through Violation of the Land Laws of the Republic of Tajikistan by Physical and Legal Persons” developed from paragraph two, point 4.4 of the Regulations of the Government of the Republic of Tajikistan of July 6, 1997, No.294 “About Approval of the Directives on “State Control over Land Use and Land Protection in the Republic of Tajikistan.”

1.2. Amount of damage to arable lands shall be assessed by the state land planting organ in accordance with the Regulations of the Government of the Republic of Tajikistan “On State Control over Land Use and Land Protection in the Republic of Tajikistan.”

1.3 These instructions represent a new means of control and serve as a basis for calculation of the quantitative index of damage done through violation of the land laws of the Republic of Tajikistan by physical and legal persons, and are to be applied in the following cases:

a) in case of partial or irrational use of arable lands (vacant lands, destruction of productive soils);

b) destruction of areas under crop (swamping, waterlogging or conversion of arable lands into pastures or bushland) through improper use of land and disregard of agricultural techniques applied to cultivation of crops;

c) loss of crop in fire;

d) in case of unauthorized occupation of land by physical or legal persons, or unlawful allotment of agricultural plots for construction purposes.

1.4. Assessment of damage will be preceded by inspection, establishment of the fact of violation of land laws, and drawing up of the necessary documents.

1.5. In case of violation of the land laws of the Republic of Tajikistan, the damage is assessed, and penalties for inflicting damage are imposed on physical and legal persons irrespective of the form of ownership or their subordination.

1.6. The sum raised through reparation of damage in case of violation of land laws is paid into special accounts of authorized local or republican organs, and, with permission of the Treasury, is used to undo the damage in accordance with the Directives “On State Control over Land Use and Land Protection in the Republic of Tajikistan” and in compliance with the Directives on special funds of authorized local and republican organs.

2. PROCEDURE FOR CALCULATION OF DAMAGE CAUSED
THROUGH THE FAULT OF GOVERNMENT OFFICIALS RESPONSIBLE
FOR NON-USE OF ARABLE LANDS OR UNLAWFUL ALLOTMENT OF LAND,
OR THROUGH UNAUTHORIZED OCCUPATION OF LAND FOR THE PURPOSE
OF CROP PRODUCTION

2.1. The following formula calculates the amount of damage in cases mentioned in point 2 of these Instructions:

$$Y_{\Pi 3} = \sum_{j=0}^n S_i \times P \times H \text{---(1), where}$$

$Y_{\Pi 3}$ is damage to arable lands;

S_i is the area of non-used [unlawfully] allotted or squatted arable lands;

P is average per hectare yield received during the last three years, no less – in kilograms;

H is the market price of 1 kg of produced crop (in somoni).

Illustration 1: Five hectares of non-irrigated agricultural land (“boghara”) were intended for wheat, but remained unused because nothing was sown.

We know that

$S_i = 5$ hectares

$P = 1000$ kg

$H = 0.5$ somoni

$Y_{\Pi 3}$ is the unknown quantity to be found.

$Y_{\Pi 3} = \sum 5 \text{ ha} \times 1000 \text{ kg} \times 0.5 \text{ somoni} = \sum 5000 \times 0.5 \text{ somoni} = 2500 \text{ somoni}$

$j = 5$

Hence, $Y_{\Pi 3} = 2500$ somoni.

2.2. The land area (S_i) is calculated geometrically.

2.3. The average yield of crops that remained unsown is derived from the previous year’s reports of the farm. In case there is no such report, the average yield is derived from average yield of the district (P).

2.4. The price of the product is determined on the basis of the value of H in Formula 1.

3. PROCEDURE FOR CALCULATION OF DAMAGE RESULTING
FROM DESTRUCTION OF CROPS THROUGH NEGLIGENCE
OF PERSONS IN CHARGE

3.1 The following formula calculates the amount of damage resulting from destruction of crops.

$$Urg = N + \sum_{i=0}^n Si \times P \times H \text{---(2), where}$$

Urg is damage resulting from destruction of crops;
Si is land area in hectares;
H is price of 1 kg of not received yield in somoni;
P is the average yield of destroyed product;
M is the amount of [financial] means spent on production of not received product, in somoni.

Illustration 1: An area of 10 ha was sown with wheat but, due to negligence, the harvest was destroyed.

We know that

Si = 10 ha

P = 1000 kg

H = 0.5 somoni

N = 1000 somoni

Urg is the unknown quantity to be found.

Urg = 1000 somoni + $\sum 10 \text{ ha} \times 1000 \text{ kg} \times 0.5 \text{ somoni} = 1000 \text{ somoni} + 5000 \text{ somoni} = 6000 \text{ somoni}$

j = 10

Hence, Urg = 6000 somoni.

3.2. The area, the average crop yield and the price of the product are calculated in accordance with requirements of the points 2.2., 2.3. and 2.4.; the total amount of means spent on sowing is derived from argumentations of the farm's planning division. In case the farm has no such data, the expenses shall be calculated with help of the technical crop cultivation map.

3.3. Formula 2 is also applied to assess the damage done by fire, floods, swamping or use of land for any other than intended purposes (pastures, overgrowing with bushes).

Illustration 2: Five hectares were sown with grain corn but due to negligence the plot was abandoned and used as a pasture.

We know that

Si = 5 ha

P = 2500 kg

H = 0.2 somoni

N = 500 somoni

Urg is unknown quantity to be found.

Urg = 500 somoni + $\sum 5 \times 2500 \text{ kg} \times 0.2 \text{ somoni} = 500 \text{ somoni} + 2500 \text{ somoni} = 3000 \text{ somoni}$

Hence, Urg = 3000 somoni.

3.4. Formula 2 is also applied to calculating damage to gardens, orchards and vineyards in cases described in 3.2. and 3.3.

4. PROCEDURE FOR CALCULATING THE AMOUNT OF DAMAGE IN CASE
OF UNAUTHORIZED OCCUPATION OF LAND OR UNLAWFUL
ALLOTMENT OF PLOTS OF ARABLE LAND BY GOVERNMENT
OFFICIALS FOR CONSTRUCTION PURPOSES.

4.1. The following formula shall be applied to calculate the amount of damage resulting from unauthorized occupation or allotment of arable lands for construction purposes.

$$Zuh = \sum_{i=0} I \times K \times S$$

$i=0$, where

Zuh is aggregate damage in case of squatting or [unlawful] allotment of lands;
i is duration of use;
K is normative price of 1 ha of arable land in somoni;
S is the area of squatted or allotted land in ha.

Illustration 1: Someone has occupied without permission 0.25 ha of irrigated arable land and put up a building. The plot has been thus misused for two years.

We know that

$i = 2$ years

$K = 15000$ somoni

$S = 0.25$ ha

Zuh is unknown quantity to be found.

$$Zuh = \sum_{i=2} 2 \times 15000 \text{ somoni} \times 0.25 \text{ ha} = 2 \times 3750 \text{ somoni} = 7500 \text{ somoni}$$

Hence, $Zuh = 7500$ somoni.

4.2. With respect to land plots unlawfully allotted for construction purposes the same formula (see 4.1.) shall be used.

4.3. Penalties resulting from damage to arable land by squatters shall be imposed on the offenders irrespective of whether these are physical or legal persons and without regard for their subordination.

4.4. Price of arable land (of both irrigated and non-irrigated “boghara” plots) shall be fixed in accordance with the techniques described in “Soil Assessment and Economic Appraisal of Land”.

4.5. The squatted area is measured on the spot by inspectors.

4.6. Lack of a document confirming the right to the piece of land (Certificate) shall be considered violation of the land law.

4.7. In case the damage done equals the minimum fine or is less than the minimum fine, inspectors shall be entitled to fine the offender in accordance with the Code of the Republic of Tajikistan “On Administrative Offences”.

4.8. The length of time (i) a piece of land was used by unauthorized occupants shall be ascertained from reliable sources.

**5. PROCEDURE FOR PENALIZING OFFENDERS FOR DAMAGE
TO THE LAND IN CASE OF VIOLATION OF THE LAND LAWS
OF THE REPUBLIC OF TAJIKISTAN**

5.1. Should inspections uncover violation of law, inspectors shall draw up an inspection report and a statement (Appendix 1 and 2).

5.2. Persons (irrespective of their subordination) who have violated the law must come up with some explanation. Should these persons refuse an explanation, inspectors shall draw up an inspection report.

5.3. The amount of punitive damages shall be determined on the bases of these instructions and handed over to the offenders.

5.4. A complaint shall be drawn up in order to make the offenders pay imposed punitive damages and to undo the damage done, which complaint is handed over to the offenders (Appendix 3).

5.5. Should the offender fail to pay punitive damages within 30 days, a statement of action shall be drawn up and submitted to the Economic Court (Appendix 4).

5.6. If the damage done has caused an ecological disaster or resulted in complete unusability of the piece of land, inspectors authorized by the government will draw up all the necessary documents, as required by the Criminal Code, and submit them to the Public Prosecutor's Office.