

COUNCIL OF MINISTERS OF THE REPUBLIC of TAJIKISTAN

DECREE

"ON APPROVAL OF REGULATION ON PROCEDURE OF COMPENSATION TO
LAND USERS OF LOSSES AND DAMAGES OF AGRICULTURAL (FOREST)
PRODUCTION CONNECTED WITH THE WITHDRAWAL OF LANDS FROM
AGRICULTURAL TURNOVER AND FORESTRY USE"

September 15, 1994, No.463, Dushanbe

Council of Ministers of the Republic of Tajikistan hereby resolves:

1. To approve the attached Regulations on procedure of compensation to land users of losses and damages of agricultural (forest) production connected with the withdrawal of lands from agricultural turnover and forest use.
2. To admit invalid the decree of the Council of Ministers of the Tajik SSR as of October 25, 1974, No. 339 "On indemnification of losses to land users and losses of agricultural production when allocating lands for state or public needs."

Chairman
Council of Ministers
Republic of Tajikistan

A.Samadov

Executive officer
Council of Ministers
Republic of Tajikistan

R.Mirzoev

Approved
Decree of the Council of Ministers
Republic of Tajikistan
September 15, 1994, No.463

REGULATION
ON PROCEDURE OF COMPENSATION TO LAND USERS OF LOSSES AND DAMAGES OF
AGRICULTURAL (FORESTRY) PRODUCTION CONNECTED WITH WITHDRAWAL OF
LANDS FROM AGRICULTURAL TURNOVER AND FORESTRY USE

1. GENERAL PROVISIONS

1.1 The present Regulation is developed in accordance with Articles 127-131 of the land Code of the Republic of Tajikistan and establishes the procedure of compensation to land users of losses and damages of agricultural (forestry) production connected with the withdrawal of agricultural and timberland for state and public needs in the territory of the republic.

1.2. Definition of damages of the land users and losses of agricultural (forestry) production connected with the withdrawal of lands for state and public use shall be implemented at the stage the advance approval of the object location and specified at registration of allocation of a land plot.

2. INDEMNIFICATION TO LAND USERS

2.1. The losses caused by withdrawal or temporary use of land plots, as well as restriction of rights of land users, including lessees, or deterioration of the lands as a result of the influence called by activity of enterprises, institutions, organizations and citizens shall be subject compensation in full (including missed profit) to land users, including the leasers who have incurred these losses.

2.2. The following are subject compensation:

Cost of apartment houses, objects of cultural and household purposes, industrial and other buildings and constructions;

Cost of fruit trees and berries, protective and other perennial plants grown by farms;

Cost of the work in progress (plowing, application of fertilizers, crop and other works);

Cost of agricultural crops.

2.3. The indemnification shall be made by the enterprises, organizations and establishments for which the land plots are allocated, and also by the enterprises, organizations and establishments the activity of which leads to restriction of rights of land users, including lessees, or deterioration of the nearby lands.

2.4. The damages to land users caused by withdrawal of the land plots or their temporary utilization shall be defined in the following procedure:

apartment houses, objects of cultural and household purposes, production buildings and other constructions situated on the allocated land plot or on the temporary occupied land plot, as well as buildings, constructions and other objects beyond the boundaries of the withdrawn land plot, if their further utilization for the intended purpose proves impossible, shall be estimated according to the book value of the object, wear and tear should be taken into consideration.

enterprises, organizations and establishments to which land lots are allocated, as agreed with the land user may, at the expense of their construction spread (and at the expense of the involved organizations' construction spread), remove to a new place or construct the appropriate new buildings, constructions and other objects instead of compensation of the cost of buildings, constructions and other objects situated on the land plots.

Thus the difference between the estimated cost of the erected objects, including their modernization and expansion, and the book value (in view of deterioration) of the demolished objects shall be paid by the land user for whom the objects are built.

2.5. The expediency of removing structures and constructions to new places and their renewal, construction of new buildings, structures and other objects in place of the demolished ones shall be defined by the commission formed according to 5.1. of the present Regulation.

2.6. The expenses of indemnification to land users are provided in the estimate for construction of objects for placing of which the land plots are withdrawn or temporarily occupied, or referred to the results of economic activity of the appropriate organizations to which the land lots are allocated.

The enterprises, organizations and establishments that neither perform construction on the allocated or temporarily occupied land plots nor implement production activity shall compensate the above mentioned costs at the expense of the funds specially allocated for these purposes.

2.7. The estimation of fruiting fruit trees and berries, and also protective and other perennial plants grown by a land user shall be made under their book value.

2.8. Non-fruiting fruit trees and berries shall be valued by actual expenses of the land user spent on:

preparation of soil, trees planting and their attendance, other kinds of work in accordance with the established standards and tariffs;

purchase of planting stock at the prices of nursery-gardens or actual expenses for their cultivation;

payment of mineral fertilizers at the prices established for sale to collective farms and state farms;

production of organic fertilizers in the farms according to actual cost.

2.9. Cost of fruit trees and berries, protective and other perennial plants shall be compensated to the state, cooperative and public enterprises, organizations and establishments on the balance of which are the perennial plants.

2.10. Cost of the work in progress (plowing, application of fertilizers, crop, attendance of crops and other kinds of works) shall be defined by actual costs for the work performed by the land user by standards and tariffs for separate kinds of these works, and also by cost of the seeded seeds, organic and mineral fertilizers etc., introduced into soil but not used in connection with withdrawal or time occupation) of the land plot.

2.11. Cost of seeds, organic and mineral fertilizers shall be compensated to land users according to actual expenses for their production if they are produced in the farm, or at the prices established by the state for sale to collective farms and state farms.

2.12. New land users shall compensate the cost of the ameliorative objects built at the expense of the state budget to the state budget while withdrawing or temporarily occupying the land plots. The amount subject to transfer to the budget shall be specified in the act of the commission on valuation.

When ameliorative objects constructed at the expense of the state budget are transferred on the balance of land users and they suffer expenses during their operation (reconstruction, expansion), the specified expenses (losses) because of withdrawal of the lands shall be subject to compensation to land users.

2.13. When in result of withdrawal or time occupation of the land plots the operation of collector-drainage, erosive-preventive and anti-mudflow structures (systems) is partially or completely broken the losses shall be defined proceeding from budget cost of works for construction of new and reconstruction of existing structures (systems), including the cost of design-surveying works in accordance with effective standards and tariffs.

2.14. The land plots occupied with agricultural crops shall be allocated to the new land user as a rule after harvesting. As an exceptional case when a land plot is allocated prior harvesting, its cost shall be compensated under condition of implementation of the basic complex of agro-technical arrangements on cultivation of the appropriate agricultural crop which is defined proceeding from average productivity of this culture in the farm for the last 5 years and the effective prices in the given zone.

On forage crops the crop is transferred to fodder units, and its cost shall be defined by the effective price of feed oats in the given zone. In this case cost of the work in progress shall not be compensated. Complex of agro-technical work for cultivation of agricultural crop (at implementation of which the land user receives the right to compensation of the cost of the crop) shall be established according to zonal systems of agriculture for each culture.

2.15. The losses caused by the cease of using water sources (wells, ponds, chinks, and etc.) shall be defined proceeding from actual costs for their construction or the cost of work for construction of new water sources of equal yield.

2.16. In cases when at withdrawal of land plots the commission on valuation considers it necessary to conduct inter-farm and intrafarm land tenure, and also develop draft lay-out and building of settlements, the costs of these works shall be provided at the expense of enterprises, organizations and establishments that are allocated the land plots or temporarily occupy the land plots in the established procedure.

2.17. The losses caused by inconvenience of land use (formation of islands at filling water basins, breaking of transport connections, dissociation of territories, and etc.) shall be defined by the amount of lump-sum costs for construction of dams, bridges, roads, access roads, crossings, other structures, and also procurement of boats, motor-boats, float-boats, ferries and other vehicles.

2.18. Other losses of land users connected to withdrawal or time occupation of the land plots shall be defined proceeding from actual costs.

3. INDEMNIFICATION TO CITIZENS

3.1. When the structures belonging to citizens on the right of the personal ownership are putdown because the land plots are allocated for state and public use in cities, settlements of city type and other settlements, these citizens shall be repaid the cost of the structures and building (houses, sheds, cellars, wells, and etc.) demolished or, at the request of citizens, they and the members of their families are provided with flats in the houses of the state or public housing funds according to the established standards.

Other persons constantly living, for not less than one year, in the houses subject to demolition shall be provided with dwelling space in accordance with existing standards.

If the land lots are allocated to the enterprises, establishments, constructions and other organizations, the dwelling shall be provided to the citizens in houses of these enterprises, establishments, constructions and other organizations.

3.2. Khukumats of cities, rayons or the enterprise, organization and establishments that are allocated the land lots shall repay to the specified citizens the cost of fruit trees and berries and cost of crops at the established prices.

3.3. At withdrawal or time occupation of the land plots allocated for collective gardens and kitchen gardens, and also the service allotments of citizens shall be compensated: cost of the unused expenses (plowing, application of fertilizers, crop and other works), defined according to the tariffs being effective for the similar works at the state agricultural enterprises located in the given district, and consumer prices for seeds, mineral fertilizers and other materials.

4. COMPENSATION OF AGRICULTURAL (FORESTRY) PRODUCTION LOSSES

4.1. With a view of conservation of agricultural and forest areas, and also ensuring of necessary level of agricultural and forest production according to Article 128 of the land Code of the Republic of Tajikistan, the enterprises, organizations and establishments to which the land plots occupied by agricultural land and forest areas are allocated for construction and other use, shall be compensated (besides the indemnification to land users) agricultural and forest production losses.

Cost of losses of agricultural and (forest) production shall be defined proceeding from the specifications established by the Government of the Republic of Tajikistan.

4.2. Glavupravzem of the Ministry of Agriculture of the Republic of Tajikistan and its local bodies, and FPA “Tajikles” shall execute control of duly reception of the funds intended to compensate losses of agricultural production.

4.3. Losses of agricultural production are not compensated:

- at withdrawal of the land plots for individual dwelling construction;
- at withdrawal of the land plots for construction of schools, boarding schools, children's homes, medical institutions, and also for cemeteries;
- at withdrawal of the land plots for water-facilities and ameliorative development in case of new lands development or reorganizations of irrigating and collector-drainage network.

5. PROCEDURE OF DETERMINATION OF LOSSES OF LAND USERS AND DAMAGES OF AGRICULTURAL (FOREST) PRODUCTION

5.1. For determination of land users' losses and damages of agricultural (forest) production connected with the withdrawal of land plots or their time occupation, the khukumats of rayons (cities) shall form commissions on valuation including a member of rayon (city) khukumat - the chairman of the commission, the state supervisor on use and protection of the rayon lands, representatives of the land user from whose lands a land plot is withdrawn or whose land plot is timely occupied, a representative of the enterprise, organization, establishment being interested in allocation of the land plot, and also representatives of other bodies at discretion of rayon (city)khukumat.

5.2. Variants to place the objects should be considered in view of losses and damages of agricultural (forest) production caused by withdrawal or time occupation of the land plot, meaning that those losses of land users and damages of agricultural (forest) production to be minimal.

5.3. On the results of work of the commission a formal note with the indication of the size subject to indemnification, and losses of agricultural (forest) production to land users to be considered and approved by the rayon (city) khukumat should be made.

5.4. The decision of the rayon (city) khukumat on the specified question may be appealed in a ten-day period in the oblast khukumat, and in the regions of republican subordination – in the Government of the Republic of Tajikistan.

6. PROCEDURE ON USE OF FUNDS ENTERING TO INDEMNIFY DAMAGES OF AGRICULTURAL (FOREST) PRODUCTION

6.1. The funds intended to indemnify land users the damages caused by withdrawal or time occupation of the land plots shall be listed by the enterprises, organizations and establishments to which the land plots are allocated. The funds shall be placed in the appropriate settlement (current) accounts of land users from whom the land plots are withdrawn, and spent on a special-purpose designation for liquidation of the consequences connected with the withdrawal the lands, and

regarding compensation of the book value (in view of deterioration) of buildings and constructions at inexpediency of their renewal or construction of the appropriate new building shall be intended for the non-centralized capital investments.

6.2. The funds intended for compensation of losses of agricultural production shall be transferred to the special account of Central Department of Land Resources and Land Tenure in accordance with Article 130 of the Land Code of the Republic of Tajikistan and Regulation "On centralization and target use of payments for the land" approved by Decree of the Council of Ministers of the Republic of Tajikistan No.386 as of August 9, 1993. These funds shall be spent on a special-purpose designation for the following:

- development of the new lands;
- melioration improvement of the lands;
- capital lay-out, earthing and other cultural-technical works on the developed lands;
- development of the design-engineering specifications for performance of the above-stated works.

6.3. The unused money resources intended for compensation of losses of agricultural production shall not be withdrawn in the end of the year and the next year they shall be spent on financing of the works specified in 6.2. of the present Regulation.

6.4. Central Department of Land Resources, Land Tenure and Land Reform of the Ministry of Agriculture of the Republic of Tajikistan is the customer for implementation of the works specified in 6.2. of the present Regulation.

Contract building organizations of the system of the Ministry of Land Improvement and Water Conservation of the republic, ABO "Tajikvodstroj" and other ministries and departments, and also land users themselves are involved to implement the specified scope of works.

6.5. Glavupravzem of the Ministry of the Republic of Tajikistan and its local bodies shall execute control over implementation of the actions specified in 6.2. of the present Regulation and duly receipt of funds for compensation of losses of agricultural production.

6.6. The funds intended for compensation of damages of forest production shall be transferred to special account of FPA "Tajikles" and spent for forest planting and rehabilitation of forest areas.