

REPUBLIC of TAJIKISTAN

THE LAW

about Ecological Expertise

(Reference: Law PT from 26.12.2005r. 123, From 30.07.2007r. №328)

The present Law adjusts the general order of the organization and carrying out of ecological examination, defines the rights and duties of the parties who participate in carrying out of ecological examination, establishes the rights of citizens to receive information on ecological risks of projects, relating to construction and maintenance, procedures for appeal of the decisions and for consideration of disputes, and also establishes the responsibility for enforcement of the legislation in the field of ecological examination.

Chapter I. General provisions

Clause 1. Ecological examination

Ecological examination - official definition of conformity of planned and carried out economic and other activity to ecological requirements and definition of requirements for ecological examination for the prevention of possible adverse influences of this activity on the surrounding environment as well as social, economic and other consequences of undertaking the project under ecological examination.

Clause 2. The legislation on ecological examination

The legislation of The Republic of Tajikistan on ecological examination is based on the Constitution of the Republic of Tajikistan and consists of the present Law, the Law of The Republic of Tajikistan about wildlife management, other legal certificates of Republic of Tajikistan and is international conventions recognized by the Republic of Tajikistan.

Clause 3. The purposes of ecological examination

The purposes of ecological examination are:

- The-prevention of possible negative consequences of projects, their adverse influence on the health of the population, natural resources, the environment, ecological safety of society, including prevention of the harm caused by them on implementation;
- Maintenance of ecological forecasting on the basis of the information on the condition and possible changes in ecological conditions resulting from developments and their impacts on the health of the population, natural resources, the environment and the ecological safety of society;
- Creation of databases of knowledge on the environment and their effects on people and nature.

Clause 4. Objectives of ecological examination

Objectives of ecological examination are:

- Estimation of efficiency, validity and sufficiency of measures on public health care, rational use of natural resources, preservation of the environment by projects under examination;
- Estimation of correctness of the definition by project proponents on the degree of ecological risk and danger of planned and carried out activity;
- Estimation of conformity to ecological standards of projects, previous decisions and records of conformity to nominated standards for activities that have already been carried out in the territory of the Republic of Tajikistan;
- The organization of the all-round, objective, scientifically proven analysis and estimation of proposed projects;
- The analysis and estimation of ecologically harmful influences of proposed projects on the health of the population, natural resources, the environment, and also possible social, economic and ecological consequences;
- Preparation of statements of the findings of ecological examinations, for presentation to decision makers for sanctioning projects, informing interested persons, the public and citizens;
- Collection and analysis of information on ecological conditions.

Clause 5. Principles of ecological examination

Ecological examination is based on the following principles:

- Mandatory carrying out of ecological examination before decision-making on the sanction of projects;
- Assessment of potential ecological dangers of the proposed projects;
- An integrated approach to the estimation of the influence of the project on the environment, other economic activities and the consequences;
- Reliability and completeness of the information prepared for ecological examination;
- Independence of experts and expert bodies involved in ecological examination in exercising their powers in the field of ecological examination;
- Scientific validity, objectivity and legality of the conclusions of ecological examination;
- Publicity, participation of the public, and taking account of public opinion;
- The-responsibility of participants of ecological examination and the interested parties for the organization, carrying out and quality of ecological examination.

Clause 6. Kinds of ecological examination

In the Republic of Tajikistan two kinds of ecological examination are carried out: state ecological examination and public ecological examination.

Clause 7. Projects requiring ecological examination

To following types of project are obliged to be subject to ecological examination:

1. Projects connected with use of natural resources;
2. Previous taking place in the territory of the Republic of Tajikistan, that include:
 - Complex socio-economic development undertakings
 - Land development or free economic zones that involve a special mode of wildlife management;
 - Major economic development projects including industries;
 - Investments that involve wildlife management;
 - Project concerned with wildlife management;
3. All kinds of the town planning, including:
 - Projects that affect wildlife and agriculture
 - Projects that include wildlife management
 - Schemes and projects that affect territorial boundaries;
 - General plans for cities and other settlements;
 - General plans for districts, other administrative units, industrial and recreational zones and similar;
 - Projects that involve lay-out of public centres, residential areas, and highways of cities;
 - Housing projects;
 - Projects that involve excavation, use of explosive and similar works;
4. Feasibility reports and civil-engineering designs for reconstruction, expansion, modernisation, preservation and removal of infrastructure, enterprises or similar, irrespective of their projected cost, that may affect the environment, including materials, on creation of joint enterprises with foreign firms;
5. Feasibility reports and projects for economic activities which can render negative influences on the environment of the adjacent states or which infringe on the interests of the adjacent states or international conventions recognized by The Republic of Tajikistan;
6. Extractive projects such as coal-mining, other forms of mining any large industry that has foreign investments, irrespective of the size of their authorized capital;
7. Projects that carry ecological dangers and are subject to approval by state bodies in the field of preservation of the environment;
8. Projects under international agreements concerning the use of natural resources and waste management;
9. Engineering specifications on new technics, technologies, materials, substances, and related goods and services, including those acquired abroad;

10. Projects that take place partly or wholly in zones of ecological disaster or similar;
11. Projects concerning the use of water, wood, ground and other natural resources which are under the protection of the state;
12. Actions that represent ecological danger;
13. Any other actions that may render direct or indirect influence on an environment.

Clause 8. The authorized state body in the field of ecologists чешкоў examinations

Activity in the field of ecological examination is carried out by the authorized state body in the field of the ecological examination, defined by the Government of Republic Tajikistan.

Clause 9.

It is excluded (in edition of Law PT from 30.07.2007r. 328)

Chapter II. Powers of bodies of the government, Enforcement authorities on places, the rights public Associations and citizens in the field of ecological examination

Clause 10. Powers of the Government of Republic Tajikistan in about ласму ecological examination

The government of Republic Tajikistan:

- will organize development and execution of the state programs of ecological examination;
- carries out measures on protection of interests of the state, the rights and freedom of citizens in the field of ecological examination;
- coordinates work of state bodies on joint carrying out of actions on realization of programs of ecological examination of the state and international value;
- appoints carrying out of additional and repeated state ecological examination by the authorized state bodies in the field of the state ecological examination;
- It is excluded (in edition of Law PT from 26.12.2005r. 123).

Clause 11. Powers of the authorized state body in Areas of ecological examination

To powers of the authorized state body in the field of ecological examination concern:

The-organization of the state ecological examination of the objects specified in clause 7 of the present Law, including formation of commissions of experts;

- establishment of validity of the positive conclusion of the state ecological examination;
- development, revision and the statement of the normative and technical and instructive-methodological documents providing realization of the present Law regarding carrying out of the state ecological examination;
- scientific and methodical maintenance of the state ecological examination;

The-organization of a supply with information of the state ecological examination, including formation and conducting databanks about planned activity, about realization of object of examination and their influence on a condition of an environment;

-interaction when due hereunder with эколоого-expert bodies of other states with the purpose of carrying out of consultations, joint ecological examinations, an exchange of scientific and methodical development, attraction of foreign experts;

It-is excluded (in edition of Law PT from 26.12.2005г. 123);

-carrying out of seminars and conferences concerning methodology and to forms of carrying out of ecological examination, an exchange of experience of carrying out and improvement of quality эколоого-expert activity;

-coordination within the limits of the competence эколоого-expert activity in Republic Tajikistan, realization of a methodical management concerning carrying out of ecological examination of objects, irrespective of their subordination and patterns of ownership,

The-control over observance of the present Law and other normative legal certificates in the field of the state ecological examination at its organization and carrying out;

-conducting the state registers of the experts participating in carrying out of ecological examination: -interaction within the limits of the competence with the ministries, departments, the organizations and their expert divisions. The authorized state body in the field of the state ecological examination has the right:

-organize, spend and take part in the international ecological examinations;

-involve in carrying out of the state ecological examination of foreign scientists and experts in established with the legislation of Republic Tajikistan the order, except for cases when the object of examination contains state or a trade secret;

- On access to databanks about a condition of a surrounding environment and to banks of knowledge in sphere of an estimation of ecological influence of economic and other activity on the person and the nature;

-direct to bank bodies of the conclusion concerning the termination of financing on the objects which have not received a positive estimation of ecological examination;

-prepare and transfer corresponding materials to law-enforcement and other bodies for the decision of questions on attraction to the responsibility of the persons guilty of infringement of the legislation in the field of ecological examination; In limits of the competence to carry out other actions which are not contradicting the current legislation, necessary for realization of the powers.

Clause 12. Duties of the authorized body state Ecological examination

The authorized body of the state ecological examination is obliged:

-provide conformity of the order of carrying out of the state ecological examination to requirements of the present Law, other operating acts, normative and technical and instructive-methodological documents;

-preliminary to inform bodies of the government on carrying out of sessions of a commission of experts of the state ecological examination on objects of ecological examination;

-direct the conclusions of the state ecological examination to the bodies which are making a decision realization of object of examination;

-give for acquaintance to the customer, submitted the application for carrying out of the state ecological examination, нормативно-technical, instructive-methodological documents regulating the organization and carrying out of the state ecological examination;

-give for acquaintance to the public organizations which are carrying out public ecological examination, normative and technical documents which establish requirements to carrying out of the state ecological examination;

-direct to enforcement authorities on places, to public organizations and the separate citizens who have given reason offers, realizations of planned activity concerning ecological aspects, the materials proving the account of these offers at carrying out of the state ecological examination;

-give to mass media by their inquiries of data on results of carrying out of the state ecological examination;

-organize preparation, retraining and improvement of professional skill of experts-ecologists of the state ecological examination.

Clause 13. Powers of local enforcement authorities in about public ecological examination

To powers of local enforcement authorities in the field of ecological examination concern:

-delegation of experts in structure of commissions of experts for participation in examination of objects which realization is planned in their territory and in cases of possible influence on an environment of the economic activities planned by other administrative and territorial unit;

The-organization of public discussions, carrying out of interrogations, referenda among the population about planned economic and other activity which is a subject to ecological examination;

-acceptance and realization within the limits of the powers of decisions concerning ecological examination on the basis of results of public discussions, referenda, interrogations, applications of the public ecological organizations and movements, the information on objects of ecological examination; Under the requirement of the population to initiate carrying out of public ecological examinations;

-informing of the authorized state bodies in the field of ecological examination about planned economic and other activity in corresponding territories;

-informing of bodies of Office of Public Prosecutor and special representatives of bodies in the field of preservation of the environment about the beginning of realization of object of ecological examination without the positive conclusion of the state ecological examination;

- Realization of other powers in the given area on the basis of legislations of Republic Tajikistan.

Local enforcement authorities have the right:

-th reception from corresponding competent bodies of the necessary information on objects of ecological examination which realization can affect an environment of the given territory, about results of carrying out of the state ecological examination and public ecological examination;

-direct in writing to the authorized state bodies in the field of ecological examination the given reason offers on ecological aspects of realization of planned economic and other activity.

Clause 14. The right of public associations and citizens in the field of ecological examination

Public associations and citizens and areas of the organization of ecological examination have the right:

-initiate carrying out, according to the present Law, public ecological examination of economic and other activity which realization harms to ecological interests of the population living in given territory;

-direct in written form to the authorized state bodies in the field of ecological examination the given reason offers, realizations of planned activity concerning ecological aspects;

-receive from bodies, организующих carrying out of the state ecological examinations according to the order established by authorized state body in the field of ecological examination, the information on results of carrying out of the state ecological examination;

-carry out other activity in the field of the ecological examination, not contradicting the current legislation. By preparation of the conclusion of the state ecological examination and decision-making on realization of object of examination the materials directed to a commission of experts reflecting public opinion should be considered.

Chapter III. The state ecological examination

Clause 15. The Commission of experts state ecological экспертизы

The state ecological examination is spent by the commission of experts formed by authorized state body in the field of ecological examination. The commission of experts joins non-staff experts and in the cases established by normative documents of authorized state body in the field of ecological examination its regular employees can join. Position about a commission of experts of the state ecological examination is developed and affirms the authorized state body in the field of ecological examination.

Clause 16. The expert of the state ecological examination

The expert of the state ecological examination is the expert involved by authorized state body in the field of ecological examination to carrying out of ecological examination in corresponding directions of a science, technics, technology. The expert of the state ecological examination cannot be the customer or the developer of the project, their representatives, representatives of the ministries, departments, the organizations to which field of activity the object the examinations consisting in labour or other contractual attitudes with the customer or the developer of the project providing material compensation concerns. The expert participates in carrying out of the state ecological examination according to the present Law and the task of the head of a commission of experts. The expert of the state ecological examination at carrying out of the state ecological examination has the right:

-declare the authorized state body in the field of ecological examination necessity of granting by the customer for ecological examination of the materials demanded for an all-round and objective estimation экспертируемых of objects;

-formulate special opinion on object of examination which is without fail applied on the conclusion of the state ecological examination. The expert of the state ecological examination is obliged:

-carry out the all-round, full, objective and complex analysis of materials represented for the state ecological examination, to define their conformity to nature protection normative legal certificates of Republic Tajikistan and to normative and technical documents;

-observe requirements of the legislation of Republic Tajikistan about ecological examination;

-observe established by the authorized state body in the field of ecological examination the order and terms of realization of ecological examination;

-provide objectivity and validity of conclusions of the conclusion;

-participate in preparation of the materials proving the account at carrying out of the state ecological examination of the conclusions of public ecological examination, and also acted from institutions of local government, public associations and citizens of the offers, concerning ecological aspects of objects of examination. The payment of non-staff experts of the state ecological examination is made by the authorized state body in the field of ecological examination on a contractual basis by way of, certain by the Government of Republic Tajikistan.

The payment and encouragement of the permanent members of staff participating in carrying out of the state ecological examination, are made in the order established for civil servants.

Clause 17. Conditions of carrying out state ecological экс пертузы

The objects which are a subject ecological examination, should contain a substantiation of ecological safety of planned or carried out activity, complex эколого - социальноэкономическую an estimation of their available or prospective influence on a condition of a surrounding environment, an estimation of ecological risk and harm for health of people, and also alternative predicted variants of decrease in such influences. The state ecological examination is spent under condition of conformity of the form and the maintenance of materials represented by the customer to requirements of the present Law, the order of carrying out of the state ecological examination, approved by the authorized state body in the field of ecological examination and presence in structure of represented materials:

The-documentation which are a subject the state ecological examination in conformity with clause 7 of the present Law, in the volume certain when due hereunder and containing materials of an estimation of influence of exported activity on an environment; The-positive conclusions and (or) the coordinated documents of bodies of the state supervision and the control and the state bodies received in the order established by the legislation; The-conclusions of public ecological examination if it was spent. The state ecological examination is spent under condition of its advance payment in full by the customer.

Clause 18. Terms of carrying out state ecological экспер тузы

Terms of carrying out of the state ecological examination are defined by complexity of object of the examination established according to normative documents of authorized body in the field of the state ecological examination and should not exceed 45 calendar days. The beginning of term of carrying out of the state ecological examination is established after its payment and from the moment of acceptance of the complete set of

necessary materials and documents in full and quantity according to requirements of clause 17 of the present Law.

Clause 19. The conclusion of the state ecological examination

Results of work of a commission of experts are made out in the form of the conclusion which is accepted under condition of its support by the qualified majority of list structure of experts. The conclusion of the state ecological examination is the document prepared by a commission of experts, formed by the authorized state body in the field of the ecological examination, containing substantiated conclusions about an admissibility of influence on an environment экспертируемой activity, an opportunity of realization of object of examination and valid at acknowledgement of its conformity to the task for carrying out of ecological examination.

To the conclusions, preparatory the commission of experts of the state ecological examination, applies the special proved opinions of its experts not concordant with conclusions accepted by the commission. The conclusion of a commission of experts subscribes chairman of the commission of experts, the responsible secretary and its all members and cannot be changed without their consent. The conclusion prepared by a commission of experts of the state ecological examination, after official acknowledgement by the authorized state body in the field of ecological examination gets the status of the conclusion of the state ecological examination. Legal consequence of the negative conclusion of the state ecological examination is the interdiction of realization of object of examination. The conclusion of the state ecological examination goes to the customer.

For realization of corresponding control functions the information on conclusions of the conclusion of the state ecological examination goes to the authorized state bodies in the field of preservation of the environment, to enforcement authorities on places. In case of the negative conclusion of ecological examination the customer has the right to present materials for repeated state ecological examination under condition of their completion in view of the remarks stated in the negative conclusion. The conclusions of the state ecological examination can be challenged in the judicial order.

Clause 20. Carrying out repeated and additional state Ecological examination

Carrying out of repeated state ecological examination is carried out in cases:

- completions of materials under remarks lead before the state ecological examination;
- changes of conditions of wildlife management;
- realizations of object of examination with deviations from earlier accepted decisions or normative terms of designing and the construction, stipulated by operating building norms and rules;
- end of validity of the positive conclusion of the state ecological examination;
- th basis of decisions of court and economic court;
- modification in the documentation after reception of the positive conclusion of the state ecological examination.

It is forbidden to involve in carrying out of repeated ecological examination of the persons who are taken part ecological examination, being in discussion. Carrying out of additional state ecological examination is carried out:

- At revealing contradictions of technology and available projects;

- At default in the specified term of treaty obligations at carrying out of initial examinations; In a case of cancellation before the given out conclusion.

Chapter IV. Public ecological examination

Clause 21. Carrying out of public ecological examination

Public ecological examination will be organized and spent under the initiative of citizens, public organizations, basic which direction of activity, according to their charters, preservation of the environment, including the organization and carrying out of ecological examination is. Public ecological examination can be spent irrespective of carrying out of the state ecological examination of the same objects of ecological examination. Public ecological examination can be spent concerning the objects specified in clause 7 of the present Law, except for objects of ecological examination, data about which make state, commercial or other secret protected by the law.

On the experts involved for carrying out of public ecological examination, the requirements stipulated by a part second, by item 1 of a part fourth, by items 1, 2, 4 parts of fifth clause 16 of the present Law extend.

Clause 22. The rights of public associations in the field of public Ecological examination

Public organizations and the associations which are carrying out ecological examination in the order established by the present Law, have the right on:

- reception from the customer of the documentation which are a subject ecological examination in volume, established in clause 17 of the present Law;
- acquaintance with the specifications and technical documentation establishing the requirements to carrying out of the state ecological examination.

Clause 23. Conditions of carrying out public ecological экспер тузы

Public ecological examination is carried out under condition of the state registration of the application of public organizations about its carrying out which is carried out by local agencies in which territory expert activity is planned. At presence of applications for carrying out of public ecological examination of one object of ecological examination from two and more public organizations creation of a commission of experts is supposed. Institutions of local government in seven-day term from the date of submission of the application for carrying out of public ecological examination are obliged to register or give up it in its registration. The application for carrying out of public ecological examination in which registration in the specified term it has not been given up, is considered registered.

In the application of public organizations for carrying out of public ecological examination the name, the legal address, data on structure of a commission of experts, the conclusion public ecological examinations, data on object of public ecological examination, terms of carrying out of public ecological examination should be resulted. Public organizations, организующие public ecological examination, are obliged to inform the population on the beginning and results of its carrying out.

Clause 24. Refusal in the state registration of the application about прове денни public ecological examination

In the state registration of the application for carrying out of public ecological examination can be given up in case: -public ecological examination concerning objects of examination has been lead earlier;

-public ecological examination was spent concerning object, data about which make state, commercial and other secret protected by the law; The-order of the state registration of public organization mismatches the established order;

- The charter of public organization, организующей and spending public ecological examination, mismatches requirements of clause 22 of the present Law.

Clause 25. The conclusion of public ecological examination

The conclusion of public ecological examination goes to the bodies which are carrying out the state ecological examination, and also the bodies making the decision on realization of objects of examination. The conclusions of public ecological examination are recommendatory and get a validity only after the statement of its results the authorized state body in the field of ecological examination. The conclusion of public ecological examination can be published in mass media, be transferred enforcement authorities on places, to bodies of the state ecological examination, customers and other interested persons of the documentation which are a subject public ecological examination.

Chapter V. An estimation of influence on an environment new Objects and planned kinds of activity

Clause 26. Planning of new objects and kinds of activity

Planning of new objects and kinds of activity which can influence an environment, is carried out on the basis of the documentation according to influence on an environment, state ecological examination subjected without fail. The list of objects and kinds of activity for which development of the documentation according to influence on an environment is obligatory, is defined by the Government of Republic Tajikistan.

Clause 27. The organization and carrying out of an estimation of influence on окружающую environment

The organization and carrying out of an estimation of influence on an environment at all stages of planning and designing of objects, financing of development of the documentation according to influence on an environment, the organization of public discussions of planned activity, representation of the documentation according to influence on an environment necessary for the state ecological examination are carried out by the customer. Requirements to procedure of carrying out, an estimation of influence on an environment, and also to the documentation according to influence on an environment are listed in Position about an estimation of influence on an environment, approved by the Government of Republic Tajikistan.

Chapter VI. The rights and duties of customers, Developers of the project and the third parties

Clause 28. The rights of customers, developers of the project and the third parties

Customers, developers of the project and the third parties have the rights: -receive from body, организующего carrying out of the state ecological examination, the information on a course of carrying out of the state ecological examination infringing their interests;

-receive for acquaintance from body, организующего carrying out of the state ecological examination, normative and technical and инструктивно-the methodical information;

-address in bodies, организующие carrying out of the state ecological examination, with requirements about elimination of infringements of the established order of carrying out of examination;

-give written or oral explanatories, remarks, offers concerning objects of examination;

-get acquainted with conclusions of ecological examination;

-show in court claims for compensation of the harm caused by deliberate infringement of the legislation in the field of ecological examination.

Clause 29. Duties of developers and customers of projects and other Documentation

Developers and customers of projects and other documentation are obliged: -represent for the state ecological examination the documentation according to requirements of clauses 7 and 20 present Laws, including in case of modification to the documentation which has received the positive conclusion of the state ecological examination;

-pay carrying out of the state ecological examination;

-transfer bodies, организующим carrying out of the state ecological examination, necessary materials, data, calculations, additional development concerning objects of examination;

-carry out the planned activity according to the documentation which has received the positive conclusion of the state ecological examination which can be presented to bank establishments for opening financing.

Chapter VII. Financing of ecological examination

Clause 30. Financing state ecological эксперти зы

The state ecological examination, including at repeated carrying out, is financed due to means of the customer in full conformity with the estimate of charges defined by body carrying out ecological examination according to order, the established authorized state body in the field of ecological examination. Financial assets on realization of the state ecological examination of objects are listed by the customer representing, according to the present Law, materials on the special account of the authorized state body in the field of ecological examination. The order of use of these means is defined by the Government of Republic Tajikistan.

Clause 31. Financing of public ecological examination

Financing of public ecological examination is carried out due to own means of public associations, public ecological and other funds, and also other means which have been not forbidden by the legislation.

Chapter VIII. General provisions

Clause 32. The responsibility for infringement of the legislation about эко To logic examination

Physical and legal persons, bear the responsibility for infringement of positions of the present Law according to the legislation of Republic Tajikistan.

Clause 33. Compensation of the harm caused in connection with infringement

Legislations on ecological examination Physical and legal persons, which rights are broken by bodies of ecological examination, customers, designers and other persons as a result of default of the legislation by them about ecological examination, can demand compensation of the loss by it by way of, established by the legislation of Republic Tajikistan.

Clause 34. The order of introduction in action of the present Law

The present Law enters to commission after its official publication.

The president Republics Tajikistan.

Rahmonov, Dushanbe, on April, 22nd, 2003 №20